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LEGISLATIVE HISTORY

Public Law 842
H. R. 5337

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INDEX AND SUMMARY OF H. R. 5337

Mar. 30, 1955	Rep. McIntire introduced H.R. 5337 which was referred to the House Committee on Agriculture. Print of bill as introduced.
Apr. 25, 1955	Rep. Budge introduced H. R. 5818 which was referred to the House Committee on Agriculture. Print of bill as introduced.
May 2, 1955	Sen. Young introduced S. 1861 which was referred to the Senate Agriculture and Forestry Committee. Print of bill as introduced.
July 8, 1955	House subcommittee voted to report H. R. 5337.
July 13, 1955	House committee ordered reported H.R. 5337.
July 18, 1955	House committee reported with amendment H. R. 5337. House Report No. 1196. Print of bill and report.
July 30, 1955	House passed H. R. 5337 with amendments.
Aug. 1, 1955	H.R. 5337 was referred to the Senate Committee on Agriculture and Forestry. Print of bill as referred.
July 10, 1956	Senate committee ordered H. R. 5337 reported.
July 11, 1956	Senate committee reported H. R. 5337 with amendments. Senate Report No. 2507. Print of bill and report.
July 13, 1956	Senate passed H.R. 5337 as reported.
July 19, 1956	House concurred in Senate amendments.
July 30, 1956	Approved; Public Law 842, 84th Cong.

Hearings: House Committee on Agriculture on H. R. 5337 and H. R. 5818, May 26 and 27, 1955. Serial T.

DIGEST OF PUBLIC LAW 842

AMENDMENTS TO PERISHABLE AGRICULTURAL COMMODITIES ACT.

Amends this Act relating to practices in the marketing of perishable agricultural commodities. Eliminates the necessity of proving "fraudulent purposes" in connection with the misbranding of any perishable agricultural commodity. Makes misrepresentation of the "region of origin" a violation of the Act. Permits the Secretary to deny issuance of a license to any person convicted of a felony in any State or Federal court. Authorizes the Secretary to deny a license to any applicant who has been involved in bankruptcy proceedings within 3 years unless the applicant furnishes a bond or other assurance satisfactory to the Secretary. Empowers the Secretary to suspend the license of a person who employs in any responsible position an individual whose license is under suspension. Provides authority for the inspection of any perishable commodity covered by the Act.

MARKETING OF PERISHABLE AGRICULTURAL COMMODITIES

HEARINGS

BEFORE THE

SUBCOMMITTEE ON DOMESTIC MARKETING

OF THE

COMMITTEE ON AGRICULTURE

HOUSE OF REPRESENTATIVES

EIGHTY-FOURTH CONGRESS

FIRST SESSION

ON

H. R. 5337 and H. R. 5818

MAY 26 AND 27, 1955

Printed for the use of the Committee on Agriculture

Serial T



UNITED STATES
GOVERNMENT PRINTING OFFICE
WASHINGTON : 1955



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MARKETING OF PERISHABLE AGRICULTURAL COMMODITIES

THURSDAY, MAY 26, 1955

HOUSE OF REPRESENTATIVES,
SPECIAL ACTION SUBCOMMITTEE ON DOMESTIC MARKETING
OF THE COMMITTEE ON AGRICULTURE,
Washington, D. C.

The subcommittee met, pursuant to notice, at 10 a. m., in room 1310, New House Office Building, Hon. George M. Grant (chairman) presiding.

Present: Representatives Grant, Hagen, Knutson, Harvey, Lovre, and McIntire.

Mr. GRANT. The committee will come to order.

We have for consideration this morning H. R. 5337 and H. R. 5818, bills introduced by Congressman McIntire and Congressman Budge, to amend the provisions of the Perishable Agricultural Commodities Act, 1930, relating to practices in the marketing of perishable agricultural commodities. Together with a report from the Department of Agriculture, all of which will be made a part of the record at this point.

(H. R. 5337, H. R. 5818, and the letter dated May 25, 1955, are as follows:)

[H. R. 5337, 84th Cong., 1st sess.]

A BILL To amend the provisions of the Perishable Agricultural Commodities Act, 1930, relating to practices in the marketing of perishable agricultural commodities

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 2 (5) of the Perishable Agricultural Commodities Act, 1930 (7 U. S. C., sec. 499b (5)), is amended to read as follows:

"(5) For any commission merchant, dealer, or broker to misrepresent by word, act, mark, stencil, label, statement, or deed, the character, kind, grade, quality, quantity, size, pack, weight, condition, degree of maturity, or State, country, or region of origin of any perishable agricultural commodity received, shipped, sold, or offered to be sold in interstate or foreign commerce;".

SEC. 2 Section 4 (d) of such act (7 U. S. C., sec. 499d (d)) is amended to read as follows:

"(d) The Secretary may withhold the issuance of a license to an applicant, for a period not to exceed thirty days pending an investigation, for the purpose of determining (a) whether the applicant is unfit to engage in the business of a commission merchant, dealer, or broker because the applicant, or in case the applicant is a partnership, any general partner, or in case the applicant is a corporation, any officer or holder of more than 10 per centum of the stock, prior to the date of the filing of the application engaged in any practice of the character prohibited by this Act or was convicted of a felony in any State or Federal court, or (b) whether the application contains any materially false or mislead-

ing statement or involves any misrepresentation, concealment, or withholding of facts respecting any violation of the Act by any officer, agent, or employee of the applicant. If after investigation the Secretary believes that the applicant should be refused a license, the applicant shall be given an opportunity for hearing within sixty days from the date of the application to show cause why the license should not be refused. If after the hearing the Secretary finds that the applicant is unfit to engage in the business of a commission merchant, dealer, or broker because the applicant, or in case the applicant is a partnership, any general partner, or in case the applicant is a corporation, any officer or holder of more than 10 per centum of the stock, prior to the date of the filing of the application engaged in any practice of the character prohibited by this Act or was convicted of a felony in any State or Federal court, or because the application contains a materially false or misleading statement made by the applicant or by its representative on its behalf, or involves a misrepresentation, concealment, or withholding of facts respecting any violation of the Act by any officer, agent, or employee, the Secretary shall refuse to issue a license to the applicant."

SEC. 3. Section 4 of such Act is further amended by adding at the end thereof the following subsection:

"(e) The Secretary shall refuse to issue a license to an applicant if he finds that the applicant, or in case the applicant is a partnership, any general partner, or in case the applicant is a corporation, any officer or holder of more than 10 per centum of the stock, has, within three years prior to the date of the application, been adjudicated or discharged as a bankrupt, or was a general partner of a partnership or officer or holder of more than 10 per centum of the stock of a corporation adjudicated or discharged as a bankrupt, unless the applicant furnishes a bond of such nature and amount as may be determined by the Secretary or other assurance satisfactory to the Secretary that the business of the applicant will be conducted in accordance with this Act."

SEC. 4. Section 8 (b) of such Act (7 U. S. C., sec. 499h (b)) is amended to read as follows:

"(b) The Secretary may, after thirty days' notice and an opportunity for a hearing, suspend or revoke the license of any commission merchant, dealer, or broker who, after the date given in such notice, continues to employ in any responsible position any individual whose license has been revoked or is under suspension or who was responsibly connected with any firm, partnership, association, or corporation whose license has been revoked or is under suspension. Employment of an individual whose license has been revoked or is under suspension for failure to pay a reparation award or who was responsibly connected with any firm, partnership, association, or corporation whose license has been revoked or is under suspension for failure to pay a reparation award after one year following the revocation or suspension of any such license may be permitted by the Secretary upon the filing by the employing licensee of a bond, of such nature and amount as may be determined by the Secretary, or other assurance satisfactory to the Secretary that its business will be conducted in accordance with the provisions of this Act;".

SEC. 5. Section 13 (a) of such act (7 U. S. C., sec. 499m (a)) is amended to read as follows:

"(a) The Secretary or his duly authorized agents shall have the right to inspect all accounts, records, and memoranda of any commission merchant, dealer, or broker, and if any such commission merchant, dealer, or broker refuses to permit such inspection, the Secretary may publish the facts and circumstances and/or, by order, suspend the license of the offender until permission to make such inspection is given. The Secretary or his duly authorized agents shall have the right to inspect any lot of any perishable agricultural commodity covered by this Act, and if any commission merchant, dealer, or broker having ownership of or control over such lot fails or refuses to authorize or allow such inspection, the Secretary may, after thirty days' notice and an opportunity for a hearing, publish the facts and circumstances and/or, by order, suspend the license of the offender for a period not to exceed ninety days."

[H. R. 5818, 84th Cong., 1st sess.]

A BILL To amend the provisions of the Perishable Agricultural Commodities Act, 1930, relating to the practices in the marketing of perishable agricultural commodities

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 2 (5) of the Perishable Agricultural Commodities Act, 1930 (7 U. S. C., sec. 499b (5)), is amended to read as follows:

"(5) For any commission merchant, dealer, or broker to misrepresent by word, act, mark, stencil, label, statement, or deed, the character, kind, grade, quality, quantity, size, pack, weight, condition, degree of maturity, or State, country, or region of origin of any perishable agricultural commodity received, shipped, sold, or offered to be sold in interstate or foreign commerce;"

SEC. 2. Section 4 (d) of such Act (7 U. S. C., sec. 499 (d)) is amended to read as follows:

"(d) The Secretary may withhold the issuance of a license to an applicant, for a period not to exceed thirty days pending an investigation, for the purpose of determining (a) whether the applicant is unfit to engage in the business of a commission merchant, dealer, or broker because the applicant, or in case the applicant is a partnership, any general partner, or in case the applicant is a corporation, any officer or holder of more than 10 per centum of the stock, prior to the date of the filing of the application engaged in any practice of the character prohibited by this Act or was convicted of a felony in any State or Federal court, or (b) whether the application contains any materially false or misleading statement or involves any misrepresentation, concealment, or withholding of facts respecting any violation of the Act by any officer, agent, or employee of the applicant. If after investigation the Secretary believes that the applicant should be refused a license, the applicant shall be given an opportunity for hearing within sixty days from the date of the application to show cause why the license should not be refused. If after the hearing the Secretary finds that the applicant is unfit to engage in the business of a commission merchant, dealer, or broker because the applicant, or in case the applicant is a partnership, any general partner, or in case the applicant is a corporation, any officer or holder of more than 10 per centum of the stock, prior to the date of the filing of the application engaged in any practice of the character prohibited by this Act or was convicted of a felony in any State or Federal court, or because the application contains a materially false or misleading statement made by the applicant or by its representative on its behalf, or involves a misrepresentation, concealment, or withholding of facts respecting any violation of the Act by any officer, agent, or employee, the Secretary shall refuse to issue a license to the applicant."

SEC. 3. Section 4 of such Act is further amended by adding at the end thereof the following subsection:

"(e) The Secretary shall refuse to issue a license to an applicant if he finds that the applicant, or in case the applicant is a partnership, any general partner, or in case the applicant is a corporation, any officer or holder of more than 10 per centum of the stock, has, within three years prior to the date of the application, been adjudicated or discharged as a bankrupt, or was a general partner of a partnership or officer or holder of more than 10 per centum of the stock of a corporation adjudicated or discharged as a bankrupt, unless the applicant furnishes a bond of such nature and amount as may be determined by the Secretary or other assurance satisfactory to the Secretary that the business of the applicant will be conducted in accordance with this Act."

SEC. 4. Section 8 (b) of such Act (7 U. S. C., sec. 499h (b)) is amended to read as follows:

"(b) The Secretary may, after thirty days' notice and an opportunity for a hearing, suspend or revoke the license of any commission merchant, dealer, or broker who, after the date given in such notice, continues to employ in any responsible position any individual whose license has been revoked or is under suspension or who was responsibly connected with any firm, partnership, association, or corporation whose license has been revoked or is under suspension. Employment of an individual whose license has been revoked or is under suspension for failure to pay a reparation award or who was responsibly connected with any firm, partnership, association, or corporation whose license has been revoked or is under suspension for failure to pay a reparation award after one year following the revocation or suspension of any such license may be permitted by the Secretary upon the filing by the employing licensee of a bond, of such nature and amount as may be determined by the Secretary, or other assurance satisfactory to the Secretary that its business will be conducted in accordance with the provisions of this Act;"

SEC. 5. Section 13 (a) of such Act (7 U. S. C., sec. 499m (a)) is amended to read as follows:

"(a) The Secretary or his duly authorized agents shall have the right to inspect all accounts, records, and memoranda of any commission merchant, dealer, or broker, and if any such commission merchant, dealer, or broker refuses

to permit such inspection, the Secretary may publish the facts and circumstances and/or, by order, suspend the license of the offender until permission to make such inspection is given. The Secretary or his duly authorized agents shall have the right to inspect any lot of any perishable agricultural commodity covered by this Act, and if any commission merchant, dealer, or broker having ownership of or control over such lot fails or refuses to authorize or allow such inspection, the Secretary may, after thirty days' notice and an opportunity for a hearing, publish the facts and circumstances and/or, by order, suspend the license of the offender for a period not to exceed ninety days."

MAY 25, 1955.

HON. HAROLD D. COOLEY,

Chairman, Committee on Agriculture, House of Representatives.

DEAR CONGRESSMAN COOLEY: This is in reply to your letter of April 20, 1955, requesting a report on H. R. 5337, a bill to amend the provisions of the Perishable Agricultural Commodities Act of 1930 relating to practices in the marketing of perishable agricultural commodities.

The Department recommends passage of the bill with amendments.

The major purpose of the bill is to strengthen and to make more effective the enforcement of the PAC Act. The bill does not broaden the basic scope of the statute but corrects deficiencies which have become apparent in carrying out its provisions.

The bill (1) eliminates the necessity of proving "fraudulent purpose" of any licensee in connection with the misbranding of any perishable agricultural commodity, (2) provides that misrepresentation of the "region of origin" is a violation of the act, (3) authorizes the officials of the Department enforcing this act to inspect any perishable agricultural commodity in the possession of, or under the control of, any licensee under the act, (4) authorizes the Secretary to suspend the license of any licensee for a period of up to 90 days, if inspection of the produce is refused, (5) authorizes the Secretary to deny a license to any applicant convicted of a felony in any State or Federal court, (6) authorizes the Secretary to deny a license to any applicant who has within 3 years prior to the date of the application been involved in bankruptcy proceedings unless the applicant furnishes a bond or other assurance satisfactory to the Secretary, and (7) permits the Secretary to suspend or revoke the license of any licensee who, after a proper notice, continues to employ in a responsible position any person whose license is under suspension. Such employment could be permitted by the Secretary after 1 year, if the suspension was for failure to pay a reparation award, upon the filing of a bond or assurance satisfactory to the Secretary.

Growers, shippers, and buyers are concerned about the existing extent of misbranding and misrepresentation of grade and origin of fresh fruits and vegetables. Although the proposed amendments to the PAC Act would not correct all malpractices in this field, they would provide significant help. Effective control of misbranding and misrepresentation of fruits and vegetables is difficult under the present statute because no authority is granted to inspect produce in the possession or control of a licensee to determine if it is misbranded unless the licensee requests or grants permission for such inspection. Also, substantial evidence must be produced that the misbranding was done deliberately with the definite intention of defrauding the buyer in order to prove that a fraudulent purpose is involved. The proposed amendments undoubtedly would expedite enforcement of the misbranding provisions of the act and provide for more effective action against licensees who violate these provisions.

The purpose of the other amendments relating to felonies and bankrupts is to eliminate from the produce business many potential troublemakers of the type who are constantly involved in disciplinary actions or reparation awards. Prohibition of the employment in a responsible position of a person whose license has been suspended is primarily for the purpose of preventing such a person from avoiding the suspension period by operating through a dummy organization. This change results in the same provisions concerning employment in a responsible position being applied to persons whose licenses are under suspension as the act now provides for persons whose licenses have been revoked.

Some questions have been raised by industry representatives concerning the scope of the authority given to the Secretary in the revision of section 13a relating to the inspection of accounts and records. These representatives have recommended that this authority be delineated and clarified by insertion of the following words after "broker" on page 5, line 5, of the bill: "as may be material

(1) in the investigation of complaints under this act, or (2) to the determination of ownership, control, packer or State, county, or region of origin in connection with commodity inspections, or (3) to ascertain whether section 9 of this Act is being complied with." We believe that the Department can carry out its responsibilities effectively within the limitations established by this proposed revision and, therefore, we are agreeable to this change in the bill.

Administration of this act, except for the cost of legal services, is financed exclusively from the license fees which are now fixed by the statute at \$15 per year. It will be necessary to increase the relatively small staff now engaged in administering the PAC Act and the number of attorneys assigned to this activity in order for the Department to conduct an expeditious and effective enforcement of the misbranding provisions. Curtailment of misbranding is not feasible by relying largely on complaints prior to investigation and requires that steps be taken to check the operations of shipping point packers and terminal market repackers. Where violations are uncovered proceedings under the formal hearings requirements of the Administrative Procedure Act must be held.

Therefore, unless provision is made for increasing the revenue under the act, it will not be possible for the Department to render the service which the industry has in mind. It is recommended that the act be amended to provide that an annual fee of not to exceed \$25 may be fixed by the Secretary. It is believed that this provision would be preferable to establishing a specific fee and should give the Department sufficient latitude to be able to realize enough revenue to carry out the foreseeable costs of administering this act, with the exception of additional expenses for legal services for which additional appropriations of about \$25,000 annually would be needed. In order to make this revision, it would be necessary to insert after the word "fee" in the third sentence of section 3 (b) the words "to be fixed by the Secretary but not to exceed \$25", in lieu of words "of \$15", and after the word "paying" in the last clause of section 4 (a) to insert the words "the fee provided in section 3 (b) of this Act plus \$5," in lieu of the words "a fee of \$20."

The Bureau of the Budget advises that there is no objection to the submission of this report.

Sincerely yours,

/s/ TRUE D. MORSE,
Acting Secretary.

Mr. GRANT. Congressman Budge, would you like to make a statement with reference to your bill?

STATEMENT OF HON. HAMER H. BUDGE, A REPRESENTATIVE IN CONGRESS FROM THE SECOND DISTRICT OF THE STATE OF IDAHO

Mr. BUDGE. I would appreciate making a very brief statement.

Mr. GRANT. All right, sir, you may proceed.

Mr. BUDGE. Mr. Chairman and members of the committee, first, I would like to compliment my colleague, Mr. McIntire, on the introduction of H. R. 5337. I think it is of extreme importance to the agricultural producers of the country. I also feel that it is extremely important to the consumers.

I have from my State Mr. C. G. Rice, who will appear before the committee. Mr. Rice is very familiar with the operations which are covered by this legislation, and he will cover this subject in a detailed presentation, so far as my State is concerned.

I do hope that the committee will take favorable action on the legislation. I feel it is extremely necessary and that it will be a big help to the agricultural producers and a protection to the consumers.

Just as one isolated illustration on that last statement, our farmers in Idaho, the potato farmers particularly, take a great deal of pride in the type of pack and the type of product that goes into that bag that is marked "Idaho U. S. No. 1."

They, of course, are inspected out there, and if you go through one of setting plants, and see the potatoes being sorted out to go to the starch plants, you will notice that our producers out there might get 2 or 2½ cents a pound for their potatoes, that is, the No. 1's, and here in the stores in Washington they are selling potatoes that are not nearly as good as those that I have seen going into the starch plants as culls, and the potatoes here in Washington, in the grocery stores, are being sold as Idaho No. 1, at 9 and 10 cents a pound.

That is the type of thing that some protection would be given to both the buying public and the producers, against that type of thing by the enactment of this legislation.

I certainly commend it to the committee's favorable attention. Thank you very much.

Mr. GRANT. Thank you very much, Mr. Budge.

Mr. McINTIRE. I would like to express my appreciation for the assistance which I have had from Mr. Budge of Idaho. We have discussed the objective of this legislation. It has been discussed with the interested people who are associated with the perishable commodities industries.

I certainly appreciate Congressman Budge, your support in the development of this legislation.

Mr. GRANT. We have several witnesses here from the Department of Agriculture. I see Mr. Grange is here. We will be glad to hear from Mr. Grange, who is the Deputy Director of the Fruit and Vegetable Division at this time.

STATEMENT OF G. R. GRANGE, DEPUTY DIRECTOR, ACCOMPANIED BY JOHN J. DIMOND, CHIEF, REGULATORY BRANCH, FRUIT AND VEGETABLE DIVISION; CHARLES W. BUCY, ASSISTANT GENERAL COUNSEL; AND JAMES H. HORTON, ATTORNEY, OFFICE OF THE GENERAL COUNSEL, UNITED STATES DEPARTMENT OF AGRICULTURE

Mr. GRANGE. Mr. Chairman and members of the committee, I am accompanied by Mr. Charles Bucy and Mr. James Horton from the General Counsel's Office in the Department, and Mr. John Dimond, who is the Chief of our Regulatory Branch in the Fruit and Vegetable Division, in direct charge of the operations of the PAC Act. If there are any questions of a particular nature or of a general nature that they might be more able to answer than I, I would appreciate the opportunity to be able to refer such questions to them.

Mr. GRANT. Yes. If you would desire to have them move up to the table with you, you may do so if it would be more convenient.

Mr. GRANGE. Thank you, sir.

I have a rather brief prepared statement on the bill that has the indorsement of the Department of Agriculture, and with your permission I would like to read it.

Mr. GRANT. Yes, you may proceed, sir.

Mr. GRANGE. These identical bills would amend the Perishable Agricultural Commodities Act of 1930 by correcting certain deficiencies which have become apparent in administering the act. The bills would not, in our opinion, change or broaden the basic scope or original intent of the statute. The PAC Act has been amended to strengthen

or make it more effective at various times since the law was first enacted by Congress in 1930. These bills represent another instance of such action.

The PAC Act has become firmly established as part of the machinery for the distribution and marketing of fruits and vegetables and has won a place of high esteem in the industry. "It was recognized as early as 1916 by leaders in the produce industry that there was a need for regulations to correct or minimize numerous problems in connection with the marketing of fresh fruits and vegetables. The industry wanted a means to eliminate many of the unfair practices of unscrupulous operators and to provide a method for bringing to rapid conclusion with a minimum of expense the numerous disputes which arise in this industry because of the speed with which it is necessary to harvest, pack, and market these perishable commodities." After a number of years of discussion the leaders in the industry working with the Department of Agriculture formulated the PAC Act which was enacted by Congress in 1930. The law is enforced through a system of licensing. The license fee at the present time is fixed in the act at \$15 per year. The penalty for operating without a license may amount to as much as \$500, plus \$25 per day for each day the violation continues. The license fees are retained by the Department and, except for the cost of legal services, the administration of the act is financed exclusively by these fees. The Department is authorized to suspend or revoke licenses for failure to pay reparation awards or for flagrant violations of the act. It is by this medium that the enforcement officials are given an adequate method of obtaining compliance with its provisions. A great majority of all disputes submitted to the Department are resolved by amicable settlement. However, if such settlement is not possible the parties can proceed by filing a formal complaint initiating an administrative proceedings for issuance of reparations by the Secretary in favor of one of the parties. In the event either party is not satisfied with this decision he is entitled to appeal the matter to the proper courts.

The following information presents a brief outline of the scope of the activities under the act. There were 26,608 licenses in effect as of March 30, 1955. Approximately 2,500 complaints are received annually and amicable settlements for the past several years have averaged approximately \$1 million annually. Last year 307 orders were issued covering reparation awards which totaled slightly more than \$300,000. The 5 field offices and our Washington office receive in the neighborhood of 3,000 inquiries annually which are not listed as complaints, but undoubtedly contribute to the settlement of a large number of disputes between the parties involved.

One major purpose of the bill is to strengthen the provisions regarding misbranding or misrepresentation of grade and origin of fresh fruits and vegetables. This objective is accomplished by eliminating the necessity to prove fraudulent purpose for such actions and by authorizing the Secretary or his representatives to inspect produce held by licensees to determine if any misbranding or misrepresentation exists. Proving that a fraudulent purpose is involved in a misbranding case means that substantial evidence must be obtained to show the intent of the person committing the violation. On a practicable basis such evidence is usually exceedingly difficult to obtain because the

person involved generally pleads that he acted in good faith and that the misbranding or misrepresentation was unintentional. Also, we have encountered the situation a number of times where the shipper or repacker has misbranded the produce as to grade or origin but claims that he was not defrauding the buyer since the latter knew of, and did not object to, the misbranding.

We want to emphasize that misbranding of fresh fruits and vegetables would not be entirely corrected by this amendment to the PAC Act. It is our opinion that the majority of fruits and vegetables are properly branded as to quality and origin at the present time, but that there is a sufficient amount of misbranding or misrepresentation to be of legitimate concern to producers, distributors and consumers. We view this amendment as a step toward curtailment of these practices. Our support of this amendment is based on the understanding that the majority of the industry is behind it. Otherwise effective and timely enforcement would be seriously handicapped, even though the Department carries out an aggressive enforcement program.

As stated in the Secretary's report on H. R. 5337, the Department is agreeable to a revision of section 5 which clarifies and limits the scope of authority to inspect accounts and records of licensees. This section of the act needs amending in order to provide authority for inspection of produce (which presently is lacking from the act) and the Department has no desire to extend unnecessarily its existing authority for the inspection of accounts and records. Section 9 of the act provides that all licensees must keep certain accounts and records and the regulations issued thereunder provide that these must be preserved for a period of two years. The proposed revision submitted by industry representatives, as set forth in the Secretary's report, would make clear that the Department had authority to inspect such accounts and records in the investigation of complaints, in following through on misbranding or misrepresentation cases, or to determine if proper records are being maintained. There are no limitations placed on the authority of the Department to inspect lots of produce under the ownership or control of licensees since effective enforcement of this provision will necessitate systematic checking or spot checking of shippers, packers, repackers, and receivers. This checking or rechecking would be done, whether or not a specific complaint had been received concerning that particular lot.

Provision is made in the bills for the Secretary to deny a license to any person who has been convicted of a felony in any State or Federal court. The act now authorizes the Secretary to deny a license if he finds that the applicant is unfit to enter the business because of engaging in a practice of the character prohibited by the act. This limitation on denial has resulted in criticism from the industry because licenses have been issued to persons whose criminal records were such that their integrity and reliability were highly questionable. Producers and shippers in particular have become accustomed to view the issuance of a PACA license as an endorsement by the Department that the individual concerned was a reliable businessman on whom they could depend either for direct sales or consignment operations.

The bills authorize the Secretary to deny a license to any applicant who has been involved in bankruptcy proceedings within 3 years unless the applicant furnishes a bond or other assurance satisfactory to the

Secretary. The act presently provides that the Secretary shall refuse a license unless a satisfactory bond is posted for any applicant who has failed to pay a reparation order which has been issued within the past 2 years except in case of bankruptcy. There have been instances of habitual bankrupts when parties interested in the firm have continued in the produce industry despite nonpayment of reparations or other indebtedness. Also, we have had bankruptcies under questionable circumstances involving failure to pay net returns on consignment or joint account transactions or following a substantial increase in purchases immediately prior to filing for bankruptcy. This amendment would give the Secretary authority to deal more effectively with bankruptcy cases and to meet the criticism which has been received from the industry that greater protection should be afforded from the operations of such individuals.

The bills authorize the Secretary to suspend the license of a person who employs in any responsible position an individual whose license is under suspension. The purpose of this amendment is to place restrictions on suspended licensees comparable to those now in effect for revocations. A person whose license has been revoked cannot hold a responsible position with another licensee until after 1 year following the revocation when such employment is permitted upon the filing of a satisfactory bond. There are no existing limitations, however, concerning the employment of persons whose licenses are under suspension. There have been instances where dummy organizations have been established which operated during the suspension period for the purpose of circumventing the suspension penalty. After the suspension period is over the licensee gives up his responsible position in the dummy organization and reverts to his original capacity of operating his own business. This amendment would give the Department a basis for dealing with such situations and would correct this deficiency in carrying out the enforcement of the act.

As stated in the Secretary's report on H. R. 5337, it is recommended that the annual license fee be changed from the present one of \$15 per year to a variable one of not to exceed \$25 per year. As stated earlier the Department would have to increase the small force now engaged in administering the act in order to carry out enforcement of the tightened misbranding provisions in an effective and expeditious manner. In our opinion it would be a mistake to make this amendment to the act without recognizing that additional enforcement costs will be involved in carrying them out. It would be our plan to establish a small force of trained investigators whose primary duties would be to spot check at shipping points and in receiving markets on the branding of grade and origin of the major fruits and vegetables. Otherwise there is no effective means of securing general compliance with this misbranding provision. It is our opinion that the maximum annual fee of \$25 should give the Department the needed latitude to carry out all the foreseeable costs of doing an effective job of administering this act with the exception of the cost of legal services which are provided by appropriations.

And, of course, any change in the annual licensees would be subject to the Administrative Procedures Act which would require the Department to give rulemaking and hold hearings if necessary or to receive recommendations from the interested parties.

The foregoing statement outlines briefly the Department's recommendations for passage of this legislation and gives its interpretation of some of the major factors which would be involved in carrying out the provisions of these amendments.

That, gentlemen is a brief summary of the Department's viewpoint on these bills. We will be glad to give such further information or to answer such questions as you may have.

Mr. GRANT. Thank you very much, Mr. Granger. I am sure that the members of the subcommittee and other members of the Agriculture Committee will desire to ask some questions.

In reference to this act, what commodities are now under it?

Mr. GRANGER. The commodities specified in the act itself covering perishable fruits and vegetables, frozen fruits and vegetables, and cherries in brine.

Mr. GRANT. I recall a year or two ago we had several bills introduced by members, I believe of the Florida delegation, with reference to florists being placed under this. The committee never took any action on it.

Being an attorney of perhaps a period of 17 or 18 years, I am looking at this from a legal standpoint, although I expect in that length of time the Supreme Court has repealed all of the law that I ever knew. However, I am just wondering if on the basis of this legislation—of course this does not come under the Department of Agriculture—if other businesses, such as the steel industry or any other industry that we might name, could not come in and ask Congress for the same privilege of having, we will say, the Commerce Department enforce provisions of misbranding of steel products, or whatever product that this particular manufacturer might be interested in. In other words, what I am getting at is this, does not this in a way preclude legal action until the Department has failed to get the interested parties together?

Mr. GRANGE. Are you referring to those commodities that are now covered by the PACA or are you thinking of other commodities that might be covered?

Mr. GRANT. I will say the ones that are covered at the present time.

Mr. GRANGE. My understanding of the misbranding provisions, referring solely to them, is that misbranding per se would be a violation of the PAC Act.

Of the moment with the necessity of proving fraudulent purpose we have to contact the second party concerned to determine how it was represented to him, did he buy it at that lower price, and was there actually an action on the part of the person doing the misbranding that would give us grounds to find that a fraudulent purpose was involved.

If it were no longer necessary to obtain evidence concerning the intent of the individual doing this misbranding, in my opinion then it would to a large extent remove the necessity of having to dig into the relationship between the two parties concerned.

Mr. GRANT. To state a hypothetical case there, let me illustrate it. If a grower or a shipper, by the name of Mr. Jones in the State of Maine, were to ship a carload of potatoes to a warehouseman, Mr. Smith, in Washington, D. C. as I understand the provisions of this bill, and of the law as it now operates, the receiver here, the ware-

houseman, instead of his employing an attorney to sue this shipper in the State of Maine, that he, under this act would take it up with the Department first?

Mr. GRANGE. Well, there would be two actions involved, I believe. There is the question of the misbranding as such or the misrepresentation as such which would be a violation of the act. And then there would be the civil action to recover the difference in value between what he received and what he had contracted to buy. That would come under the other more usual provisions, the ones we do the most work on, under PACA, where a complaint could be filed with the Department and where if the facts substantiated the complaint a reparation award could be issued. And then upon failure to pay the reparations award, of course, the complainant's final recourse is to the courts on a civil suit.

I believe he would have two elements involved in such a transaction as you outline.

Mr. GRANT. For instance, under this case we will say that there is no fraud perpetrated, and the shipper in the State of Maine ships a carload of potatoes to Washington, D. C., on open account to the warehouseman, and the warehouseman does not pay. Would he take that up with the Department, or would his only recourse be to sue?

Mr. GRANGE. If it were misbranded it would certainly come within the purview of this Act.

Mr. GRANT. I do not mean any misbranding, but just if it was shipped—if the potatoes met the specification of the warehouseman in Washington, and the warehouseman in Washington would not pay for them.

Mr. GRANGE. Let me ask Mr. Bucy what he would say to that.

Mr. BUCY. I might say that the act specifically provides, in the case of reparation proceedings, that it is in addition to any remedy the man might have.

The shipper in your instance would have his choice of making a complaint to the Department of Agriculture which would initiate a reparations proceeding, if it was not settled informally, or he could proceed to any court that had jurisdiction over the subject matter of the complaint that he had against the other party and proceed with that remedy. In other words, he could proceed on a judicial basis, or an administrative basis. And they are concurrent. They are not preclusive of each other.

Mr. GRANT. Thank you. I think that pretty well covers that point.

I have one other question, and then I will yield to someone else. It has to do with the issuance of a license to a particular individual.

I think the statement is made in your prepared statement that where a man had been convicted of a felony that he would be denied a license. That is the second paragraph on page 4 where it states:

Provision is made in the bills for the Secretary to deny a license to any person who has been convicted of a felony in any State or Federal court.

I am just wondering if any of you gentlemen have any statement that you might give us on the constitutionality of that. I am just wondering if the Secretary would have the power to do that. Say, for instance, a man had been convicted of a felony, say, murder, for instance.

Mr. GRANGE. I will yield to my colleague on that.

Mr. GRANT. Do you have any information on that—do you recall that that is provided for in any other act?

Mr. BUCK. On a particular example I would assume that he would not be available to apply for a license, had he been convicted of murder.

The provision here states that he shall be, if the Secretary finds that by reason of having been convicted of a felony that he is unfit to engage in this business. That does not mean that if a man has been convicted of a felony that is of a technical nature or does not involve a fraudulent aspect, that sort of thing, that the Secretary need deny the man a license. In other words, he can consider the factors as to whether or not the particular conviction indicates that the man is the type of man who should not be in this business because of his established lack of recognition of fair play in dealing with the producer's commodity.

Mr. GRANT. Well, frankly, I can see the need of it, but I was just wondering whether or not that is constitutional.

Let me ask you this, please, Mr. Grange. Does the same license of \$25 apply to every shipper regardless of size? Say, for instance, we might have a little one-horse shipper as we would call it, would he pay the same license fee that a man does who ships \$100,000 a year?

Mr. GRANGE. Yes. The standard license fee is that. Any person who is subject to the provision of the act doing business in interstate commerce pays the same annual license fee. That is \$15 per year.

Mr. GRANT. Thank you very much.

Mr. Hagen, do you have any questions?

Mr. HAGEN. Referring to page 1 of the bill, line 6, it says, "For any commission merchant, dealer, or broker."

I was wondering, first, whether the man I will describe will fall within this definition.

Let us take a farmer in California who raises potatoes, and markets his own potatoes interstate. Would he fall within this? Does he have to get a license?

Mr. GRANGE. No, sir. A farmer selling only his own produce is exempt from the provisions of the act.

The farmer who packs or sells his own, as well as some from neighboring farmers, would be subject to the provisions of the act.

Mr. HAGEN. Only in respect to those shipments which he purchased from his neighbors?

Mr. GRANGE. I think if they are subject to the act, why then, all of their operations are subject to the act.

Mr. HAGEN. In other words, if he handles anybody else's produce he has to get a license. If misrepresentation occurs with respect to other than his own produce, he would be subject to losing his license?

Mr. GRANGE. That is correct. I believe that is right.

Our determination is whether or not his operations are such that he becomes subject to the act.

The way the act is laid out, the rules and regulations, you do not go in to each individual transaction that he has to determine that on its own merits would be subject or not subject to the terms of the act.

Mr. HAGEN. I must confess unfamiliarity with the process of selling in interstate commerce, but I assume it is something like this: The farmer, Mr. Jones, in California, or in the State of Maine, sells potatoes to, we will say, a commission merchant in Cleveland, Ohio. He

in turn resells this produce to a chain grocery store, or something like that?

Mr. GRANGE. About any assumption you would want to make as to the method of selling in interstate commerce in all probability would be correct, insofar as fresh fruits and vegetables are concerned, because they are sold in practically every form of transaction known to mankind. It is very common, the type of transaction that you cited.

Mr. HAGEN. All right, let us say that the middleman in Cleveland, Ohio, bought a consignment of potatoes from somebody in California. Let us say that he was put upon, defrauded to a certain extent by the man he purchased from.

That man, in turn, relying on the label or his contract, resells on that basis.

Under this language would he be guilty? I mean, does he have a duty independently of determining whether or not the label and the representations on this carton or whatever it might be are correct?

Mr. GRANGE. You have asked two questions now.

This buyer in Cleveland, to use your example, has purchased a lot of California potatoes that are branded "No. 1," and they are not in fact "U. S. No. 1," if that comes to our attention we will inform that buyer that they are not "No. 1" potatoes, and that for him to go ahead knowing that, to sell them in those original containers, without either obliterating the mark or having them regraded to bring them into compliance with the grade on the bag, why then we would hold in violation of the PAC Act. Unless he takes such independent action on his own part, we will not hold him accountable for the original misbranding, but we will hold him to see that the misbranding is in some manner or otherwise corrected. We would not go ahead and prosecute him for having done the misbranding, but if we pointed out to him and he does nothing about it, why then we would look to him for some redress.

Mr. HAGEN. If he innocently, relying on this label or the way bill, or whatever it might be, resold, you would not revoke his license?

Mr. GRANGE. That is correct, unless we had some evidence to show that he knew or had good reason to know that they were misbranded, that we would not hold him responsible.

Mr. BUCY. I think it would be of interest in that connection, under the Administrative Procedures Act, in the case of a license, it requires that in the absence of willfulness you must notify the party and give him an opportunity to bring himself into compliance.

Mr. McINTIRE. It might be said that in the administration of this act over the past years, effort has been made to call the violation to the man's attention. Then he is subject to discipline only when it is evident that he has been deliberately avoiding correcting the situation.

Mr. BUCY. That is correct. Even after it has been brought to his notice why, of course, he is entitled to a full administrative hearing and a determination based on the evidence brought out there.

Mr. HAGEN. By the same reasoning then you would require some affirmative misrepresentation. The mere failure to mention, we will say, the degree of maturity to the buyer—you can misrepresent by silence actually or inadvertently—but you would not revoke the license for that?

Mr. GRANGE. No, there would have to be some natural action, some step on the part of the individual concerned.

Mr. HAGEN. In that same section you conclude that paragraph by saying, "Received, shipped, sold, or offered to be sold in interstate or foreign commerce."

That is pretty extensive language. Why should the offer to sell be included? Nobody is damaged, including the public, if there is no sale accomplished.

Mr. GRANGE. I am not sure that I know all of the history of that one. That is the way the PAC Act has been written since its inception in 1930.

I know we have run into the same thing in administering the Agricultural Marketing Agreement Act, that if a lot of produce is prepared, ready to go to market, is in position to be sold in interstate commerce, and an offer has been made to sell it in interstate commerce, but the physical movement has not yet been started, that you are handicapped considerably then trying to catch up with it and show that he actually did it, whereas if you could cover the offer to sell, you have a much more effective point at which to apply your determination as to coming within the scope of the act than you otherwise would have.

Mr. HAGEN. That is all. Thank you.

Mrs. KNUTSON. Mr. Chairman, this is all very new to me, because I do not have any of these industries in my district.

What is meant and what is included in the misbranding as you are using the term?

Mr. GRANGE. Well, there are a number of ways that the commodities that we are talking about here, principally fresh fruits and vegetables, could be misbranded.

The most common one is misbranding as to grade. There are United States standards issued by the Department of Agriculture for all major fresh fruits and vegetables and practically all minor ones, too, by the way. And they establish certain specifications as to size, amount of defects permitted, shape, appearance, cleanliness—all of those factors that normally would be considered as quality factors for the particular commodity involved.

Then you will have a package of one of these commodities that is marked or branded, to use the common expression, "United States No. 1," or "United States Grade A," when it is not in fact "United States No. 1," or "United States Grade A."

It may be "United States No. 2." It might even be culls.

Another instance of this branding that is encountered and that the authors of these bills, I think, have in mind is that it is rather common practice for many of these commodities to have the State or region of origin on the commodity. Many people wish to buy California carrots, say, instead of carrots grown in another State. So these might be marked on the package, "Grown in California," or "California carrots," something like that.

In some markets, as you probably know, certain premiums are paid because of the fact that the produce comes from a particular State or area.

There have been and continues to be instances where the packer or the repacker has improperly marked the package as to the State of origin.

Those or the two most common types of misbranding that are encountered.

Mrs. KNUTSON. Thank you, Mr. Grange.

When do you send out your inspectors? Do they come at any time? Does it have to be a special season or is it just any time in the year?

Mr. GRANGE. You mean inspectors for the purpose of determining whether or not misbranding is being conducted?

Mrs. KNUTSON. Yes, it could be that.

Mr. GRANGE. At the moment there are no inspections being made for that purpose, because the P. A. C. Act as now written does not authorize representatives of the Department to inspect the produce involved to determine misbranding. We can inspect books, records, accounts.

Mrs. KNUTSON. Would it show up there?

Mr. GRANGE. No. You could look at the records all day long, but without looking at the produce, it would not help you. Say that the records show "United States No. 1," or whatever it may be, but without being able to look at the lot of produce that these records purportedly cover as to quality, we would have no way of knowing whether or not misbranding existed.

The present inspection that is conducted by the Department of Agriculture, and the Fruit and Vegetable Division, in this instance, has to do with inspection to determine whether or not they do meet the United States grades that we were referring to just a moment ago. That is entirely a permissive inspection.

The shippers, for one reason or another in connection with their sales, because their contract calls for delivery of United States No. 1, will apply for inspection from a Federal or a Federal-State inspector, or at a receiving market, if the buyer for some reason or another wishes to obtain inspection, then he applies to our inspection office for that inspection, but that is on a permissive basis.

Mrs. KNUTSON. Do you have to wait then to inspect their records until they ask you?

Mr. GRANGE. Yes. That is one of the purposes of these bills. There is contained in here an amendment to the inspection of accounts and records, a paragraph that goes on to say that the Secretary or duly authorized agent shall have a right to inspect any lot of perishable agricultural commodity covered by this act.

Mrs. KNUTSON. At any time?

Mr. GRANGE. At any reasonable time during business hours. That is what our regulations say.

As covered in the statement that I presented, it would be our plan if this were enacted—that is one reason why the maximum fee should be increased—to set up a small force of trained inspectors as investigators who would spot check at the shipping point and in the receiving markets to determine whether or not misbranding or misrepresentation was being practiced.

Mrs. KNUTSON. That answers my question, thank you.

Mr. LOVRE. I am not a member of this subcommittee, but there is one question that is in my mind. Are there any like inspection statutes that we have?

Mr. GRANGE. Yes.

Mr. LOVRE. In other words, are we leading into duplication of inspections?

Mr. GRANGE. No.

Mr. LOVRE. What about the Pure Food and Drug Act—are there not provisions in there that take care of misbranding and misrepresentation of fruits and vegetables?

Mr. GRANGE. Yes, sir.

Mr. LOVRE. Are you not getting into a duplication then—that is all I want to know—are there other statutes providing for like inspection?

Mr. GRANGE. The Pure Food, Drug, and Cosmetic Act has a misbranding, so-called provision. And under the Pure Food, Drug, and Cosmetic Act you probably recall from the amendment to the act that was made a couple of years ago following the Supreme Court's decision, why they very clearly specified that representatives of the Food and Drug could inspect these persons' plant, premises, commodities, et cetera, at any time.

However, the activity of the Food and Drug, insofar as fresh foods and vegetables are concerned, is and always has been on a very limited basis.

The principal purpose of the Food and Drug Act has to do with adulteration of foods, poisonous effects or contamination, that type of thing.

We are speaking of an economic type of misbranding.

The fact that this lot is a No. 2 instead of a No. 1 is not going to have any deleterious effects upon the purchaser of it. It is an economic factor.

The interests of the Food and Drug has not been directed to that field. They have enough to do covering their other field.

Mr. LOVRE. It is within the purview of the Pure Food and Drug Act to take care of the very same thing that you are suggesting that you do now via this other route. That is my whole point.

Mr. GRANGE. Yes, except that the major portion of the duplication in the statutes already exists between the two laws.

Mr. LOVRE. The whole point here is that we have so many duplications in Government—Government is so big. Of course, we have been trying to do away with that and to eliminate duplications so that we could have better Government and better inspections with less money. It is my understanding that was the purpose of the Hoover Commission. I thought perhaps this legislation, that is, by it we were trying to undo what we were trying to do by the Hoover Commission.

Mr. McINTIRE. Is it not a fact, Mr. Grange, that actually this legislation will tend to clarify the relationship as between the PAC Administration and the Food and Drug Act, in that, from a practical standpoint, the Food and Drug people enter the field of fresh fruits and vegetables only at the point where they make a decision that they are unfit for human consumption, and the field as to misbranding which exists or may exist in the industry beyond the point of fit for human consumption is an area that neither the Food and

Drug Act Administration or the PAC Administration have specific and practical jurisdiction at this time over.

Are we not, in this legislation, covering an area which has needed covering—needed clarification, either in the one act or the other? And are we not by this legislation placing it specifically and unquestionably in the field of those who are already in that field of determining grades and branding in relation to grades, an area that the Food and Drug people have never quite covered because of the fact that they are not administratively set up to perform that service?

Are we not in fact clarifying the jurisdiction of the Food and Drug and the PAC, rather than overlapping, although perhaps in a specific legislation there may seem to be an overlapping, but administratively there is an area that is not covered sufficiently at this time from a practical standpoint?

-Mr. GRANGE. I would agree with that, Mr. McIntire.

If I may, I would like to add this, that we have a memorandum of understanding with the Food and Drug Administration concerning our activities in the inspection field and certification field, which goes far beyond the fresh fruits and vegetables that we are speaking of at the moment. We have a very fine working relationship with the Food and Drug Administration in our fruit and vegetable activities. And a part of our understanding is that insofar as misbranding of fresh fruits and vegetables are concerned that the handling of those cases will be conducted under the jurisdiction of the Perishable Agricultural Commodity Act, where, as you point out, Mr. McIntire, we are working in that field—we have the inspectors—we have the knowledge—we have the contact with the industry—and it is something that the Food and Drug normally does not address itself to, except in those instances as you also have pointed out where you actually get into a question of spray residues, unfit for human consumption, or other aspects of that nature.

Mr. McINTIRE. Deterioration reaching the point where they say that it is not fit for human consumption and must be removed from the channels of trade?

Mr. GRANGE. That is correct, yes, sir.

Mr. McINTIRE. Coming back to this matter of the fee. First, however, let me say that out of what little experience I have had in this field in fresh fruits and vegetables, certainly, the Administrator of this act is to be commended, and I would like the record to show commendation of the administration of Mr. Curry, who has now retired, and his duties now are taken over by Mr. Dimond, because I think this act, as it has been administered down through the years, has become recognized as an act protecting the interests of both the shipper and the receiver, the producer and consumer, in establishing higher standards in this industry which is so fast moving, and by virtue of its perishability, involves tremendous and many transactions which depend upon the integrity of the people, both from the shipping and receiving end, that they will perform their business functions in a good, legitimate way. And it has served to raise the standards to a point where both sides can deal with a high degree of protection, with the feeling that the folks they are dealing with are sound folks and will live up to their obligation.

The administration of the act has always been in the direction of improving the standards within the industry and the trading prac-

tices. I would like to be on record in saying that the amending amendments are intended to improve those standards, and the problem within the industry, rather than to impose upon the industry any element of any further control or regimentation. The amendments have the same objective as the original act in the manner in which it has been administered down during the years.

Do I understand from your testimony that as this act has been administered it has been self-supporting?

Mr. GRANGE. That is correct.

Mr. McINTIRE. Other than perhaps some of the top echelon of administrative function, broadly this act has been supported by the fees?

Mr. GRANGE. Except for the cost of legal services, Mr. McIntire, it has been completely self-supporting.

Mr. McINTIRE. In your recommendation that this bill be amended to provide for an increase in these fees, if I recall from your testimony, it would be permissive to go up to \$25?

Mr. GRANGE. Yes, sir.

Mr. McINTIRE. But it would not be a mandatory \$25 fee?

Mr. GRANGE. That is correct.

Mr. McINTIRE. But would be adjusted from the present \$15. The Secretary would be authorized to increase the fees only to the extent that increased services would be needed.

Mr. GRANGE. That is exactly right, Mr. McIntire. There would be no point in the Department increasing the fees above what was necessary to do an effective and efficient job, because the fees as specified by the act can be used only for the purposes of carrying out its administration. We certainly would have no intention or reason to raise those fees unnecessarily.

I would just like to say that this subject you very well know has been discussed over a long period of time between ourselves and the industry and with representatives here in Congress, and we feel that all of these people are looking to the Department to do something about this situation which is not completely taken over, but there is enough of it going on that we feel that people are right in having a legitimate concern about it. We do, too.

If we are going to do the kind of a job that is expected we are not just going to continue doing what we are at present. We are going to have to get out there and get to work on it. And in order to do that we are going to have to pay some people some money and to hire some more people and to move them around and see that there is some actual checking and some work done. For that reason we propose that a maximum, in order to give us the latitude needed, so that we can fit it in properly at this time—we cannot tell exactly what it might take to do an acceptable time—we feel quite sure that the range of up to \$25 should be sufficient to meet all of our foreseeable costs, whether it would be to \$25 or some point in between the \$15 and \$25, we are not in position at this time to say definitely.

Mr. HAGEN. Some of these criteria, say, quality or condition, degree of maturity, et cetera, with respect to the innumerable number of commodities, might be a little difficult to ascertain, that there would be a real possibility of an innocent error, even at the point of origin. Is that not true? Like, for example, an orange. It takes a very

complex test to determine the sugar content of the orange. There at least you have a clear-cut case. Some of these criteria I imagine are fairly indefinite.

Mr. GRANGE. All of these terms that are used here, such a condition and degree of maturity, which might appear to be more nebulous, for all of the major fresh fruits and vegetables, are defined in our grade standards. If a person was to use a term such as "slightly skinned," for example, which is a measure of degree of maturity on a number of our products, we expect, as laid down in our regulations, that "slightly skinned" ties in with the official recognized published standards for that factor.

I do not think and I do not believe that we have had in the history of the administration of the act difficulties or misunderstandings concerning what was misrepresentation on such factors as these and what was not.

Mr. HAGEN. What I was leading up to was, would it weaken your proposal at all to add the word "wilfully" before the word "misrepresent" on line 7, page 1?

Mr. GRANGE. There you are getting into the question of "intent" again, which is comparable to what we have now for "fraudulent purpose."

I believe that our legal counsel would tell us that there is very little difference between obtaining substantial evidence of "wilfully" and obtaining substantial evidence of "for a fraudulent purpose."

Mr. HAGEN. I imagine every commission merchant, for example, has maybe 10 employees. We will say that one of them made an error in determining compliance with these standards. He is making a misrepresentation, or his employee has. I think that under the language that you propose here he could be subject to have his license revoked.

Mr. GRANGE. Mr. Bucy pointed out in answering a prior question that all of our actions under this act are subject to the provisions of the Administrative Procedures Act.

And as Mr. McIntire pointed out, even before the passage of that act in 1946, we still adopted the procedure of giving the person an opportunity to demonstrate or to achieve compliance with its provisions before proceeding with any action. And, also, before any formal action can be taken it is subject to a hearing and development of evidence on both sides.

In the case that you point out, a clerical error, a typographical error, or an error on the part of someone working for that individual, that could be clearly shown that it was just in the nature of an incidental mistake of that type. Why then that would bear very heavily in the determination of what, if anything, should be done as disciplinary action against that individual. Undoubtedly, we would warn them and say that they should take steps to see that such events did not take place again regardless of how it came about.

Mr. HAGEN. Of course, I think this is a very good act. From what little I know, Mr. McIntire has a very good bill here. However, for example, in liquor licensing cases, in some States, at least, it is illegal to sell liquor to a minor, and a man is subject to a revocation of his license, even though he had no knowledge, even if he inquired and

was deceived by the minor. That is because it is determined to be a very grievous thing for minors to drink liquor. So that you put a tremendous responsibility on the licensee in that regard.

Of course, that consideration does not apply so much here.

I just want to ask you about this, if it would not perhaps be better to put the word "willful" in there, and then with a further paragraph to the effect that receiving, offer for sale, shall be *prima facie* evidence of willful intent to defraud, to deceive, or something like that, and then you would give the fellow an out—you would shift the burden to him. Once you proved the misrepresentation you would shift the burden to him.

Mr. GRANGE. I believe, sir, that under our administrative procedures and systems that we follow there is very adequate recognition and protection given now to avoid unnecessary, unjustified disciplinary action.

Personally, I would question very much the addition of "willfully" to it, because under my understanding we would have virtually what we have now, in that we would have to prove the intention of the individual.

Mr. HAGEN. Could you not cover that by saying misrepresentation shall be *prima facie* evidence of the willful intent? Then you shift the burden to the licensee to show the facts and circumstances that take him out from under that?

Mr. BUCY. I think that you get pretty close back to where we are, when you start qualifying it in that direction in the sense, as I pointed out before, you have two factors here. First of all, they have got to be notified and to be afforded an opportunity to tell their story before any action is instituted against them.

Secondly, they do have readily available inspection service that can preclude any opportunity for their being held responsible for a mistake of employees or otherwise, because once they have received a certificate of their inspection, why, they have every right in the world to rely upon that, because it is *prima facie* evidence of the grade of the commodity.

I think when you do get into the willful term, in a great many instances you come right back to the same force that the language in the act would presently have; that is, for a fraudulent purpose.

Mr. GRANT. Mr. Grange, we certainly thank you, you and your associates, very much, for coming up here. I wonder if there is anyone else from the Department that has a prepared statement or who would like to make a statement?

Mr. GRANGE. No; I believe that completes our statement.

Mr. GRANT. We certainly thank you for your excellent presentation.

Mr. GRANGE. I appreciate very much the opportunity to give our viewpoint on this. I would like to say on the part of the Department that we appreciate very much Mr. McIntire's remarks concerning the method and reception that the administration of the PAC Act has had in the past. We certainly intend to do everything that we can to see that it is administered in a comparable manner in the future.

Mr. GRANT. We will next hear from Mr. C. W. Kitchen, executive vice president of the United Fresh Fruit & Vegetable Association.

We will be very glad to hear from you at this time, Mr. Kitchen.

**STATEMENT OF C. W. KITCHEN, EXECUTIVE VICE PRESIDENT,
UNITED FRESH FRUIT & VEGETABLE ASSOCIATION, WASHINGTON, D. C.**

Mr. KITCHEN. My name is C. W. Kitchen and I appear here in the capacity of executive vice president of the United Fresh Fruit & Vegetable Association, with headquarters in Washington, D. C. The nearly 2,800 members of this association, residing in all of the States, are engaged in the marketing of fresh fruits and vegetables, and are licensed under the Perishable Agricultural Commodities Act. They are directly concerned, therefore, with any proposed amendments to that act.

We recommend the enactment of H. R. 5337, and that also applies to the bill introduced by Mr. Budge, with the following amendment to section 5 which amends section 13 (a) of the act. The amendment we suggest is to strike out the first sentence of section 5 (a) of H. R. 5337 and substitute the following therefor:

The Secretary or his duly authorized agents shall have the right to inspect such accounts, records, and memoranda of any commission merchant, dealer, or broker as may be material (1) in the investigation of complaints under this act, or (2) to the determination of ownership, control, packer, or State, country, or region of origin in connection with commodity inspections, or (3) to ascertain whether section 9 of this act is being complied with, and if any such commission merchant, dealer, or broker refuses to permit such inspection, the Secretary may publish the facts and circumstances and/or, by order, suspend the license of the offender until permission to make such inspection is given.

There is concern in the industry that the language now in H. R. 5337 is broader than necessary to accomplish the purposes of the act. The suggested amendment would limit the right to inspect books and records to those that are material to the purposes stated. We recommend this change in the bill, and we understand it is acceptable to the Department.

The Perishable Agricultural Commodities Act has served the fresh fruit and vegetable industry for 25 years. Many thousands of complaints have been settled, most of them by informal proceedings not requiring the formality and expense of hearings. A long line of decisions and opinions has been established for the guidance of the industry.

The act made unlawful the former not uncommon practice of repudiating contracts, without reasonable cause, because of a decline in the market or for some other reason considered advantageous to one of the contracting parties. It has provided added protection to growers and shippers in connection with consignments for sale on commission. Other practices, not in the interest of orderly marketing and good merchandising, were banned. The act, in effect, establishes a code of fair conduct which has added stability to the industry. It has been administered with a high degree of justice and equity, and is popular throughout the industry.

This committee has approved several amendments from time to time, all having the purpose of strengthening the act as weaknesses developed from experience in its administration. H. R. 5337 is for a similar purpose.

In recent years there have been complaints of misbranding, primarily as to State or area of production. There have been complaints,

for example, that carrots grown in Eastern States have been marked "Western" or "California," and potatoes grown in Middle Western and Eastern States have been labeled as "Idaho potatoes." Shifts in areas of production and in types of commodities, together with extensive repackaging outside of producing areas have created new conditions and may have tempted some to seek an advantage by such misbranding. Others can testify in more detail on this point.

In order to deal more effectively with such conditions, to the extent they may exist, H. R. 5337 specifically authorizes the Department to inspect commodities in connection with enforcement investigations. It also strikes out the words "for a fraudulent purpose" in section 2 (5) of the act in connection with misbranding or misrepresentation. These changes would strengthen the act and enable the Department to do a more effective job of enforcement.

This act is not a criminal statute. Its penalties, nevertheless, are severe. When certain flagrant violations are proved anyone subject to the act can be expelled from the industry. For that reason the House Committee on Agriculture spent many weeks carefully studying the provisions of the original bill, and included several safeguards such as the one just mentioned. As time went on some of them were removed, and we believe this one should be eliminated in the light of present-day needs.

The act is designed to protect the many from the unscrupulous few, of whom some are found in any industry. Probably the only direct contact hundreds of persons have with the act is when they get a bill for \$15 for the annual license fee. But they know the act is there to serve when needed. Incidentally, the industry pays for the cost of this protection, which is not the case with many regulatory laws. We believe H. R. 5337 will enhance the protection afforded by this act and we hope this committee will place its stamp of approval upon it with the amendment suggested.

Mr. GRANT. Thank you, Mr. Kitchen.

Do you have any questions, Mr. Hagen?

Mr. HAGEN. I want to ask if you have any further thoughts about this matter of a possible innocent involvement in this license forfeiture?

Mr. KITCHEN. I do not think so. When you start qualifying, it complicates the problem of enforcement.

I think, in observation on the question that you were asking Mr. Grange, that the Administrative Procedure Act, the inspection service which is now generally available, and the constructive administration which has been used in administering this act provides the necessary protection.

Keep in mind that this has been on the books for 25 years. They handle some 2,500 to 3,000 complaints a year. Most of them are settled by informal proceedings.

I would say that the observation that we hear most is that it takes too long, there is too much red tape; this is a fast-moving industry, and many people cannot see any good reason why these things cannot be settled right now. That is the way they operate on a day-to-day basis. But we realize that certain safeguards are necessary. There is always a possibility of an arbitrary abuse of unreasonable power.

This is a harsh statute. I have observed it very closely over many years. I spent a great deal of time with this committee when it was

first considered in 1930. Many of us were rather apprehensive, but as time has gone on it has provided the protection this industry needed.

When a situation arises you do not have to go to court and sue in some foreign jurisdiction. You have an administrative way of settling these matters.

All in all, I think the act has served a tremendous purpose and I am not particularly fearful of the amendment proposed here.

Mr. HAGEN. Thank you.

Mr. GRANT. I notice that Mr. Hagen smiled when you stated there have been complaints of carrots grown in Eastern States that might have been marked "western" or "California," but what followed that statement made Mr. McIntire frown. [Laughter.]

Mr. KITCHEN. I did not say, Mr. Grant, that Maine potatoes had been branded as "Idaho." I said, "Middle Western States."

Mr. MCINTIRE. I would like to make the observation for the record, out of personal knowledge over a number of years, I know of no one better qualified—there are others perhaps equally well qualified—but no one better qualified in this field than the witness, Mr. Kitchen. His long experience in the Department of Agriculture, and in his capacity as an executive official of the United Fresh Fruit and Vegetable Association brings to the committee this morning his recommendations from a great deal of experience in dealing administratively with some of these problems and also dealing with them as a representative of the people who are actually trading every day. His opinions are valuable to me always and I am sure equally valuable to the Committee.

Mr. Kitchen, in relation to the recommendations of the Department on the matter of the inspection fee, is it your thought that this legislation before us today will perhaps require a little more of an inspection staff to give us the type of administration of these provisions that the industry would hope could be made?

Mr. KITCHEN. Yes. We never like to acquiesce or to approve of increases in marketing costs. They are high enough now, but I think most people in the industry would take the view that if we want to purge the industry, so to speak, of this misbranding, particularly as to the point where grown, we must expect that the Department will have to incur some additional expense.

Mr. MCINTIRE. Is it also appropriate to say, Mr. Kitchen, that the concept that the bulk of the cost of this service be borne by the industry, as it has been over many years, is a concept satisfactory to the industry at the present time?

Mr. KITCHEN. Yes, I think that would be true because the amendment proposed places a ceiling of \$25, and presumably of course by the time this bill becomes law there will be an increase in the license fee. Just what it would be or should be at the moment I certainly do not know.

Mr. MCINTIRE. Certainly, the industry has the problem of costs, but on the other hand it is also perfectly willing to pay for such services as are necessary to build constructively in this field?

Mr. KITCHEN. That is right. I think I might make this observation: That the industry was willing to accept an annual license fee in order to get the kind of administration it expected and hoped for.

Experience with Appropriations Committees, with all due respect to the members of those committees, does not always give funds that

the Department needs to do the job that should be done. Therefore, even though this were a regulatory law, the industry felt in order to get the protection it wanted it would bear the cost of its administration. We have an excellent illustration in the question that was raised with respect to the Food and Drug Administration.

Before we gave serious consideration to these amendments, we checked with the Food and Drug Administration. We have been complaining about some of the misrepresentations, such as fresh-frozen and matters of that kind which both the Federal Trade Commission and the Food and Drug Administration can control. On this one, I think the Food and Drug Administration has authority to deal with misbranding, but they make it very clear that their appropriations are so limited that they cannot deal with these economic questions. In other words, their concern is to protect the public's health from adulterated and poisonous foods. And the fact that your pocketbook or mine might be affected by some marketing malpractice is not one that they can deal with, with the funds they now have.

As Mr. Grange has pointed out, there is an operating administrative memorandum between the two organizations, so that I think the only way we are going to get this job done is to do it under the act that the fruit and vegetable industry knows about, has faith in, and can be used for this purpose.

Mr. McINTIRE. Then it is your opinion that this act does not complicate an area where there may be in theory some overlapping jurisdiction, but does help to clarify perhaps a certain part of that area, to place the responsibility where, from past history, it can be more effectively administered by the people who know this phase of the trading part?

Mr. KITCHEN. That is right. I think that is correct.

Mr. McINTIRE. Coming back to the matter of the fee, I expect probably that the people you represent feel that, by virtue of their being willing to carry the burden of this function, any increase in the fee will be made only after consultation between the Department of Agriculture and the trade.

Mr. KITCHEN. I would think so.

Mr. McINTIRE. Thank you.

Mr. GRANT. Thank you very much, Mr. Kitchen.

Mr. KITCHEN. Thank you.

Mr. GRANT. Our next witness is Mr. Rice from Idaho. We will be very glad to hear from you at this time, sir, if you wish to testify.

STATEMENT OF C. G. RICE, FIELD REPRESENTATIVE, IDAHO ADVERTISING COMMISSION, BOISE, IDAHO

Mr. RICE. My name is C. G. Rice of Boise, Idaho. I am duly authorized by the Idaho Advertising Commission, of Boise, Idaho, to appear before this Committee in their behalf. The Idaho Advertising Commission constitutes 8 members appointed by the Governor of the State through legislative act, effective since 1939, to advertise Idaho potatoes through assessment of 1 cent per hundredweight from Idaho potato growers. The agriculture commissioner is chairman and has directed me to appear. We greatly appreciate the opportunity to be present at this hearing through the invitation and assistance of the

Honorable Hamer H. Budge, of Idaho, who has introduced an identical bill, H. R. 5818.

I shall testify as to the damaging effects to the potato industry as I have observed them in three-quarters of the terminal markets in the United States through repacking operations by wholesalers and retailers.

My duties as field representative for the Idaho Advertising Commission are as follows: Since 1939 I have contacted annually all important distributors of potatoes in nearly 65 terminal markets, embracing 25 States located in northern, eastern, and southern United States. These include brokers, jobbers, wholesale distributors, retailers, hotel and restaurant purveyors, and hotel and restaurant chefs. Moreover, I am required to coordinate 65 Idaho potato advertising publication schedules and to encourage better market methods through the consumption of more potatoes.

I shall try to confine my remarks to the national potato picture by using Idaho potatoes as an example of some of the irregularities in repacking taking place in nearly all terminal markets in the United States. I refer to misbranding and misrepresentation of potatoes as to their origin. This injures the potato grower who in good faith produces such potatoes, properly graded, properly labeled and branded. We believe it is only the unscrupulous few who seek to exploit the differential in price of potatoes grown in one potato area and sold for the same potato varieties grown in another area. My observations in this field of repacking operations in terminal markets convince me that the practice is of such growing proportions in recent years that if not controlled it will in all likelihood so confuse Mrs. American Potato Shopper that she will hardly know if she is buying a real potato or a turnip.

Latest figures show that 10 million bushels of all Idaho potatoes are repacked annually into consumer packs in one form or another at terminal markets. Of this amount 3 million bushels are Idaho potatoes, or equivalent to 6,000 cars. Many of these, like other potatoes from other areas, are being misbranded through labels or misrepresented as to origin of production.

In this repacking operation of potatoes in terminal markets, I shall now take you to some of these market repacking operations as I investigated them in the early fall of 1954 in one of the large midwestern terminal markets which I will call market A. The reason for this potato investigation was that many trade complaints coming from that market to the Commissioner of Agriculture of the State of Idaho claimed that certain Russet potatoes from areas other than Idaho were being packed into containers branded as Idaho potatoes and sold as Idahos.

I personally surveyed 30 retail stores first. Finding the complaints to be true, next I surveyed 6 large potato-repacking operations and found too many irregularities such as I will enumerate as follows: packing Russet potatoes from other States than Idaho with such brands as Western Grown, Mountain Grown, and Selected Russets; operations where I found Russet Potatoes other than Idaho's being dumped from original 100-pound containers into repack operations where the choicest sizes were selected for box packs, the boxes labeled or branded Idaho Russet Potatoes, and sizes, et cetera, marked on contain-

ers, the smaller size 2-inch minimum or 4-ounce going into 10 pound open mesh bags branded U. S. No. 1 Selected Idaho Russet Potatoes.

Such operation was seen in three of these large terminal markets where I was able to have a look. I was denied admittance at some others. I photographed retail sales of russet potatoes—doubled signed sales price cards marked “Idaho Russet Potatoes” when not a single bag was Idaho’s. I had seen everything in this market when I unexpectedly came upon such operations as seeing Idaho No. 2 russets being interchanged from the No. 2 pack into one of the nation’s well-known Idaho popular U. S. No. 1 brands, and sold as Idaho’s finest U. S. No. 1 grade. These bags had been secured from sack salvage after the original potatoes had been consumed.

At this point I enlisted the help of State Food and Drug officials, but learned that they were limited as to funds and personnel. I appealed to the Federal Food and Drug Administration where I learned that much the same condition exists. I was told that no one was being poisoned by misbranding of Idaho potatoes; in other words, they had to confine their efforts and expenditure of money to the control of the adulteration of food. However, through insistence by our Members of Congress, they gave the matter their attention, issued warnings and stopped the practice in a few instances.

At that time, Idaho Russets in that market were bringing, depending on grade and quality, as much as \$2 per hundredweight more than Russets grown in other areas than Idaho. This convinced us that control of misbranding required additional legislation which is why we in Idaho are supporting H. R. 5337.

With your permission, Mr. Chairman, at this point I would like to make an insertion of other operational repacking of potatoes to this statement.

Mr. GRANT. Without objection, you may proceed.

Mr. RICE. Through further observations I wish to call this committee’s attention to other potato repacking operations which takes place through large retail distribution facilities where the original pack of potatoes of many varieties from many States are repacked in consumer bags of all sizes with no label, brand, variety or point of origin of such potatoes. Here again creeps into the potato picture other exploitations by this kind of repacker, especially where one area of potato production affords an advantage over potato areas through freight differential if for no other reason. I can assure this committee that the volume is beyond the imagination of the potato growers of the United States.

Such observed repack observations were in Texas, Georgia, Florida, the Carolinas, Pennsylvania, Illinois, Michigan, Missouri, during the years 1954 and 1955.

In the 16 years since we adopted our potato advertising tax we have collected and spent more than \$2 million to identify and advertise our potatoes and onions. To show that we believe in this law, I want to tell you that at the last session of the Idaho Legislature this tax was raised to 2 cents per hundredweight from 1 cent per hundredweight, in fact, doubled. This was approved by a substantial majority of our 9,000 potato growers. In addition we think we have strengthened our law by taking steps to adopt and register a State of Idaho trademark which will be required to be placed on every package of potatoes leaving the State. Packages must also carry the name and address of

the packer. Use of the trademark will be closely controlled under this law. I am submitting with this statement a copy of the regulation (exhibit A) recently adopted by the Idaho Advertising Commission on this point.

I also have wire authorization for approval and adoption of the bill from the Idaho Shippers Association at Idaho Falls, Idaho, representative of 90 percent of the fresh fruits and vegetables shipped from Idaho and eastern Oregon. Also wire authorization for approval and adoption from the Idaho Potato Producers Association representing 85 percent of the potato growers in Idaho. I submit these for the record (exhibit B). May the adoption of H. R. 5337 bring to the potato industry a new area in better marketing.

You can see from my statement the efforts we are making to help ourselves in our potato marketing. We still need, however, the assistance that will be provided by this bill in curbing misbranding of our potatoes by an unscrupulous minority. It is for those reasons that we favor the passage of this bill.

I want to express our appreciation again for the opportunity of appearing before the committee and presenting our views.

(Exhibits A and B are as follows:)

EXHIBIT A

IDAHO ADVERTISING COMMISSION

Regulation B9. Providing for trademark for Idaho potatoes and requiring the use thereof on all interstate shipments of Idaho potatoes and further providing that the wording "packed in Idaho by -----" followed by the name and address of the Idaho packer be placed on all containers of Idaho potatoes shipped in interstate commerce.

Under the authority granted to the Idaho Advertising Commission by title 22, chapter 12, of the Idaho Code, the following regulation is hereby adopted and placed in force as of April 18, 1955, as revised May 16, 1955:

All potatoes grown in Idaho and packed in containers in Idaho for export outside of Idaho shall be branded, marked, labeled, or stenciled in a plain and legible manner with the words "Grown in Idaho" incorporated in a trademark an exact reproduction of which is attached hereto.¹ The trademark shall not be less than 5 inches in diameter and shall not be placed closer than 2 inches from the top nor closer than 4 inches from the bottom when used on the front of a 100-pound container. When the emblem is used on the rear of a 100-pound container the trademark shall be not less than 12 inches in diameter. On 100-pound containers the trademark may be placed on front or back, or on both sides if placed as indicated and in sizes indicated. On 50-pound containers the trademark shall be used as on 100-pound containers but in proportionate sizes. On all containers of less than 50 pounds the trademark shall appear only on the front of the container but may be placed anywhere so long as it is plainly visible; and it shall be in relative proportion to brands, labels, or other printed matter thereon but not less than 1½ inches in diameter.

On all potato containers containing 50 pounds and over the words "Packed in Idaho by -----" followed by the name and address of the packer shall be located on the front lower half of the container but not closer than 6 inches to the bottom thereof. On all containers containing less than 50 pounds of potatoes the words "Packed in Idaho by -----" followed by the name and address of the packer may be placed any place on the container but shall be so placed as to be plainly visible.

The trademark and the words "Packed in Idaho by -----" followed by the name and address of the packer shall be in color or colors in contrast with the color of the container.

¹ On file with the committee.

All growers, shippers, and packers of Idaho potatoes within the State of Idaho are prohibited from using any brand, mark, label, or stencil depicting the name of a State other than Idaho or the name of any geographical region other than Idaho. The growers, shippers, and packers of potatoes within the State of Idaho are not hereby precluded by this wording from packing and shipping potatoes grown outside the State of Idaho so long as such potatoes are not misrepresented or misbranded as Idaho potatoes.

Printing of the trademark and "Packed in Idaho by -----" followed by the name and address of the packer is compulsory on all potato containers printed or contracted for after July 1, 1955, and 1 year's time, that is, until July 1, 1956, is permitted to use up present container supplies held or contracted for by growers, shippers, and packers of Idaho potatoes within the State of Idaho.

Only shipments of certified seed potatoes to destinations outside of the State of Idaho are exempted from this regulation.

EXHIBIT B

IDAHO FALLS, IDAHO, May 23, 1955.

C. G. RICE,

Ambassador Hotel, Washington, D. C.:

This is your authority to include and represent the Idaho Potato Producers Association in presenting favorable testimony before the subcommittee of the House Agricultural Committee May 26-27 on H. R. 5337 and H. R. 5818 the McIntire and Budge bills to amend certain provision of the Perishable Agricultural Commodities Act.

M. O. STRATFORD,

Executive Manager, Idaho Potato Producers Association.

IDAHO FALLS, IDAHO, May 23, 1955.

C. G. RICE,

Ambassador Hotel, Washington, D. C.:

This your authority represent Idaho Shippers Association, Inc., before House Committee Agriculture considering bills H. R. 5337 and 5818 amending Perishable Agricultural Commodities Act. Tightening control over misbranding of perishables we very much favor amendments we represent over 90 percent of fresh fruits and vegetables shipped from Idaho and eastern Oregon.

EDD MOORE,

Manager, Idaho Shippers Association.

Mr. GRANT. Mr. Rice, thank you very much. I believe you state that the Idaho Advertising Commission is composed of eight members appointed by the Governor as authorized by the State legislature.

I understand this commission advertises all of the products raised or made in your State?

Mr. RICE. Potatoes and onions only. Under another setup there is prunes, but that does not come under our commission. That is the prune association.

Mr. GRANT. Of course, we are not going to ask you where you made this inspection, the city in which you made the inspection mentioned in the exhibit, but Mr. McIntire and myself here thought they might have shot you for a spy.

Mr. RICE. I did not show up afterward for a while.

In a previous report I covered about nine other terminal markets, on which such flagrant violations were had, of what I had seen in market A.

Mr. GRANT. You believe that either of these bills here would meet unanimous or almost unanimous support of the growers and shippers in your State?

Mr. RICE. Yes, sir. I would like to further state that in my contact in 25 States I come in personal contact with many growers from many

areas, and many shippers from many areas, and the majority of the stalwarts of this fresh-fruit industry definitely concur in the fresh fruit and vegetable industry to clean up their house a little and to place a strengthening hand in PAC.

Mr. McINTIRE. I do not have any questions particularly, Mr. Chairman, except that I want to again assure, Mr. Rice, of the very active interest which Congressman Budge has taken in legislation dealing toward this objective, and my appreciation of his joining with me in filing an identical bill, and his aid in getting this matter before an appropriate subcommittee of the House Committee on Agriculture.

Certainly, while some may say or may think that Idaho and Maine are in competition in the potato industry, I would want the record to show that we are not. We are simply friends in the same business.

The advertising commission that you represent should be commended for the very aggressive way in which they represented the interests of Idaho products, particularly potatoes and onions. We in Maine share a little pride in the vehicle which you are using because we think we pioneered a bit in that type of a legislation deal in our State and think that it is a tool in the hands of producers and shippers within the State whereby they can represent themselves before the consumers in relation to the products which they are producing and handling.

Certainly, I wish to express my appreciation of your coming from Idaho to be here at this hearing in support of the legislation which Mr. Budge and I have presented.

Mr. GRANT. Is there anyone else in the room that desires to testify at this time on this bill? That is, in support of it or in opposition to it?

Mr. McINTIRE. I would like to place in the record at this point a letter addressed to our chairman, Mr. Cooley.

I ask unanimous consent that it be placed in the record.

Mr. GRANT. It is so ordered.

(The letter dated May 16, 1955, from the Potato Industry Council of Maine, Inc., is as follows:)

THE POTATO INDUSTRY COUNCIL OF MAINE, INC.,
Presque Isle, Maine.

MAY 16, 1955.

The Honorable HAROLD D. COOLEY,
Chairman, House Committee on Agriculture:

The Potato Industry Council of Maine, a trade organization representing 4,600 producers of potatoes in the State of Maine, unanimously voted, in a general assembly of representatives on May 6, 1955, to endorse, without reservation, bill H. R. 5337 which would effect necessary changes in the Perishable Agricultural Commodities Act.

The Potato Industry Council of Maine, in supporting Congressman Clifford G. McIntire's bill, H. R. 5337, has long advocated these changes which would strengthen the PAC Act for the benefit of the entire potato industry.

This testimony has been prepared by the undersigned on the order of the officers and directors of the Potato Industry Council of Maine.

Respectfully,

E. F. LEACH,
Executive Secretary.

Mr. GRANT. We will adjourn at this time until 10 o'clock tomorrow morning.

(Whereupon, the committee adjourned at 12 o'clock noon, to reconvene at 10 a. m., Friday, May 27, 1955.)

MARKETING OF PERISHABLE AGRICULTURAL COMMODITIES

FRIDAY, MAY 27, 1955

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON DOMESTIC MARKETING OF
THE COMMITTEE ON AGRICULTURE,
Washington, D. C.

The subcommittee met at 10 a. m., Hon. Harlan Hagen (acting chairman) presiding.

Mr. HAGEN. The committee will please be in order.

Mr. Grant is unavoidably absent so he has asked me to get the meeting underway. I might state that yesterday we heard the Department—Mr. Kitchen, was it not?

Mr. McINTIRE. Yes.

Mr. HAGEN. Both of the witnesses were for the McIntire bill with the exception that the Government witness, suggested 2 amendments, 1 relating to the right to inspect books and other records, and the other providing for a permissive flexible increase in the license fee up to \$25 in order to take care of the increased costs of the misbranding provision, which that provision would probably necessitate, and I understand that those 2 amendments are acceptable to Mr. McIntire; and, so far as is known, there are no witnesses who have requested to be heard who are in opposition to these proposals, with the exception that the committee chairman received a letter from Mr. Burrows, executive vice president of the International Apple Association, which Mr. McIntire tells me is in opposition.

Mr. McINTIRE. May I say, Mr. Chairman, it is only on the matter of the details for clarification and interpretation of words.

Mr. HAGEN. Today we have with us the following witnesses, Mr. Joseph S. Shelly, secretary, Vegetable Growers Association of America; Mr. W. M. Case, executive director, National Potato Council; Mr. W. B. Whiteley, president, National Potato Council; Stanley Vogt, National Farmers Union; Mr. Fred W. Burrows, president, International Apple Association; and Mr. D. W. Ward, of the Philadelphia Terminal Market Association.

The witnesses are scheduled in that order. Now, if you gentlemen have statements and merely wish to submit them and want to comment, perhaps on some of the testimony that you have heard in the course of the hearings, we will be glad to have you do so. We may have some questions that will be asked.

You understand that the full Committee on Agriculture is meeting contemporaneously with this committee.

Mr. McINTIRE. That is right.

Mr. HAGEN. So whatever you gentlemen wish to do is all right with the committee.

Mr. Shelly is the first witness on the list.

Mr. CASE. Mr. Chairman, I am W. M. Case, executive director of the National Potato Council.

I might say to you that in consideration of your time, we will be glad to have Mr. Whiteley speak for the National Potato Council. We have only a very brief statement.

STATEMENT OF JOSEPH S. SHELLY, SECRETARY, VEGETABLE GROWERS ASSOCIATION OF AMERICA

Mr. SHELLY. Mr. Chairman, I have a rather brief statement and I think perhaps I would save the time of the committee if I read it.

Mr. Chairman and members of the committee, my name is Joseph S. Shelly. I am secretary of the Vegetable Growers Association of America, representing 6,500 vegetable growers.

The Vegetable Growers Association of America supports the provisions of H. R. 5337 to amend the Perishable Agricultural Commodities Act of 1930, relating to practices in the marketing of perishable agricultural commodities. This act has been beneficial to the vegetable growers, having saved them hundreds of thousands of dollars and untold protection against fraudulent practices. This act has provided uniformity and stability to an industry which transacts most of its business by such means of communication as telephone and telegraph. The fact that most vegetable commodities are carried through the market channels sight unseen points to the imperative importance that the Perishable Agricultural Commodities Act be without flaw.

The original intent of the Perishable Agricultural Commodities Act is to suppress unfair and fraudulent practices in the marketing of fresh fruits and vegetables. Although this Act has functioned well and served its objective, certain loopholes and inconsistencies exist which need to be rectified to provide better supervision and administration of the act by the Department of Agriculture.

Under the present provisions of the act, it is very difficult and impossible in most cases to prove fraudulent purposes. Even through litigation fraudulent intent is difficult to determine, especially in cases where the merchant or dealer willfully intended to defraud the shipper or the buyer. Certainly we can see no harm to the legitimate operator if the act is amended in section 2 (5) as proposed in H. R. 5337.

The Vegetable Growers Association endorses the strengthening of the Secretary's hand in regard to licensing of individuals who have been bankrupt or convicted of felonies outside of the Perishable Agricultural Commodities Act. Under the present act there is nothing that prevents a disreputable person who has claimed bankruptcy from being relicensed and going back into business. The present act provides no means of preventing a man to be licensed or relicensed if he has committed a felonious crime outside the provisions of the act.

We see no undue hardships, regimentation, or violation of prerogatives in granting the Secretary of Agriculture authority to inspect accounts, records, and merchandise of dealers. The Secretary has this authority in other instances as in the case of the Commodities Exchange Act. Without this authority, it is almost impossible to prove guilt in case of fraudulent activities. We believe that providing authority to spot check records of dealers without necessarily filing a complaint will be desirable, promote a better attitude toward the act

and its administrators, among dealers, and give valuable assistance in discouraging inadequate and fraudulent recordkeeping, especially by those few who deliberately seek to violate or circumvent the law.

The amendments proposed in H. R. 5337, we do not believe, should be objected to by the law-abiding dealer nor add any additional impositions on him or his business.

Mr. HAGEN. Thank you, Mr. Shelly.

The only question I would have is this: Are you familiar with the amendments proposed by the Department which somewhat limit the search of records and accounts to those which are relevant; that is, that they must have some substantial relevancy.

Mr. SHELLY. Those are amendments which have been proposed.

Mr. HAGEN. That have been proposed by the Department in a letter to the chairman.

Mr. SHELLY. I do not believe I am familiar with them.

Mr. MCINTIRE. Do you have a copy of the bill?

Mr. SHELLY. I have a copy of the bill; yes.

Mr. HAGEN. The amendments they request, and I think these are the same amendments the Department requests, is that the first sentence, in section 5 (a) of H. R. 5337, would be stricken and the following substitute inserted:

The Secretary or his duly authorized agents have the right to inspect such accounts, records, and memoranda of any commission merchant, dealer, or person, as may be required in the investigation of complaints under this Act; or (2) to the determination of ownership, the control factors in the State or country of origin in connection with the commodity inspection; or (3) to ascertain whether the provisions of this Act are being complied with and if such commission merchant shall refuse permission for inspection, the Secretary may publish the facts and circumstances or order suspending the license which the permission gives.

These are the amendments which Mr. Kitchen endorses, as I understand it.

Mr. MCINTIRE. Yes. May I say, Mr. Shelly, the purpose of this amendment is to more specifically point up the fact that any inspection of records, accounts, or memoranda of commission merchants who are being dealt with would occur only on the occasion of the administration of the act.

Mr. SHELLY. Yes; in other words, that it is not a fishing expedition.

Mr. MCINTIRE. That is right.

Mr. SHELLY. I think we would concur on that.

Mr. MCINTIRE. May I say, Mr. Chairman, from my own personal knowledge, the association that Mr. Shelly represents this morning has been very much interested in improving or correcting the situation that exists in relation to misbranding of vegetables and fruits and in their organization they have been discussing the problem which exists in misbranding of fruits and vegetables.

Mr. HAGEN. Congressman McIntire, do you have any questions of Mr. Shelly?

Mr. MCINTIRE. No; only to express my appreciation to him and his organization for their analysis of this bill and their support of it.

Mr. HAGEN. Thank you very much, Mr. Shelly.

Mr. SHELLY. Thank you.

Mr. HAGEN. Mr. Case, I believe you said Mr. Whiteley is going to testify for the National Potato Council?

Mr. CASE. Yes.

Mr. HAGEN. Mr. Whiteley, do you wish to read your statement or simply present it for the record?

Mr. WHITELEY. Mr. Chairman, I have a brief statement and I believe I can save the time of the committee by reading it.

STATEMENT OF W. B. WHITELEY, PRESIDENT, NATIONAL POTATO COUNCIL

Mr. WHITELEY. My name is Winslow B. Whiteley. I am a potato grower and shipper from Oakley, Idaho. However, I am appearing before you today in a dual capacity, as a potato grower and also as president of the National Potato Council. I am accompanied by Mr. W. M. Case, executive director of the council.

The National Potato Council is a nationwide potato growers organization whose board of directors represents practically all of the potato growers' organizations in the United States. I wish to give you the potato growers' opinion of H. R. 5337.

This bill is of the direct outgrowth of a resolution adopted at the annual meeting of the National Potato Council held last September in Chicago. That resolution read as follows:

Now, therefore, be it

Resolved, That the National Potato Council study the situation thoroughly and develop national legislation that would have for its purpose the proper labeling of all potatoes offered on the market, in accordance with Federal or State grades, and to have printed on all containers the State of origin and the weight of the contents in the container. Such proposed legislation should be developed as quickly as possible and submitted to all States for their criticism and approval, or disapproval.

I wish to say that this resolution did not come on the spur of the moment. The problem it seeks to correct has been recognized by the leading potatomen for several years. It has come up for discussion at the annual meeting of the National Potato Council for the past 4 or 5 years. The present proposed bill H. R. 5337 does not do all the things the leaders of the potato industry desire, but we believe it is a very definite and valuable step in the right direction and, if passed, will accomplish much for the benefit of the potato industry and for all potato consumers.

Following the adoption of the resolution, the executive committee of the National Potato Council met with the Secretary of Agriculture who gave his approval of some type of legislation to accomplish this purpose. At his suggestion we met the next day with the Director of the Fruit and Vegetable Division, Agricultural Marketing Service, United States Department of Agriculture and asked that his Division make a study of the situation and from that study help us develop appropriate legislation.

Following this survey and at a meeting with representatives of the Department of Agriculture they presented the results of their study and made suggestions concerning what they thought would be sufficient to correct some of the more glaring faults of the present system. This resulted in some proposed amendments to the Perishable Agricultural Commodities Act which, if adopted, would have the effect of protecting the business of the honest potato grower and handler and the consumers from abuses brought about by misrepresentation.

I wish to say that by far the overwhelming majority of potato growers, potato handlers and retailers are honest and fair in their

dealings but, in the past few years, there has been a growing number of unethical operators who have misrepresented the grade of potatoes contained in packages and this has led to much dissatisfaction on the part of consumers. It has also brought into the picture the element of unethical and unfair competition among potato handlers and retail store operators. The limitations of the Perishable Agricultural Commodities Act, as they exist today, have made it almost impossible for the Federal Government to properly enforce the regulations of the act that were designed to protect both the honest operator and the consumer. We therefore hope that the Congress will see fit to pass these amendments.

I am informed that the Department of Agriculture has proposed a change in the bill as written by substituting new language for section 13 (a) of section 5. We approve this change and support the new wording of both amendments.

The resolution adopted at the annual meeting by the members of the National Potato Council instructed its officers to submit any proposed legislation back to the directors in each State for their opinion. This was done and the replies received from directors were unanimous in the endorsement of the proposal. Therefore, we believe that we can say to you that the leading potato growers and shippers of the Nation support this legislation and urge its passage. We potato men naturally are sensitive to the criticism of consumers concerning the misrepresentation of potatoes offered them. While this undoubtedly is a small percentage of the potatoes sold it is enough to bring a serious charge against the potato industry as a whole. We sympathize with the consumers and are anxious to bring about the correction of this bad situation. We believe that the enactment of H. R. 5337 will make it possible for the administrator of the Perishable Agricultural Commodities Act to correct these abuses.

I will not take your time to describe all of the operations of the act since it has already been presented to you by representatives of the Department of Agriculture but I do wish to pay tribute to this act and to the men who have administered it. It has been of great benefit in bringing honest and fair dealing into a widespread industry where hundreds of millions of dollars worth of business is done by telephone or telegram with full confidence in the Perishable Agricultural Commodities Act to see that contracts are properly honored. The perishable produce industry cannot survive without it. It is therefore highly respected within the trade and its regulations will be lived up to.

As I said in the beginning, H. R. 5337 does not do all that leading potato men hope for but it is a long step in the right direction of an industry that is trying to enforce honest, ethical operations within its ranks and to protect consumers from the unethical actions of a limited number who are fast bringing disrepute to the entire industry.

Thank you.

Mr. HAGEN. Mr. Whiteley, I understand that you support the amendment suggested by the Department?

Mr. WHITELEY. That is correct.

Mr. HAGEN. Now, actually, this legislation does not establish any point of origin of branding requirements, does it?

Mr. WHITELEY. No.

MR. HAGEN. Is that still a matter within the discretion of the Department; do they have that authority now?

MR. WHITELEY. No.

MR. HAGEN. But if such a representation is made, this would guarantee that it would be a true representation?

MR. WHITELEY. I would think so.

MR. HAGEN. Mr. McIntire, any questions?

MR. MCINTIRE. Mr. Whiteley, first let me say that Mr. Budge has joined in support of this legislation by filing an identical bill, has been very interested in supporting the objectives here, and has taken an active part in the discussions relative to it.

Also I am happy that you have placed in the record the interest which the National Potato Council has had in this legislation for sometime, because here, again, I know from the facts that it has been under discussion and development within the National Potato Council for quite a while.

In relation to the question which Mr. Hagen asks you: Do you not think, Mr. Whiteley, that this will help to strengthen the hands of producers in the separate States which have branding laws under their State legislation, which do require State registration and so forth, and which do administer these laws in an attempt to get proper branding and grading. Don't you think there has been a weakness in the efforts of the separate States in that there has not been a close enough tie-in through the Federal jurisdiction which would make it more effective at the State-Federal level? In other words, the branding laws which you have in Idaho and which we have in Maine and which exist in many other States, are confined to jurisdiction within the State, and once outside the State, some of these practices you refer to have been going on and you have not been able to get in to do anything on them to correct them. Do you think this legislation would help in that type of situation?

MR. WHITELEY. Mr. McIntire, we are hopeful that it will, and we see no reason why it would not be a very forward step in that direction.

For instance, in the State of Idaho, this year they have gone on record as putting on all containers, going out of the State, a State seal, and this type of legislation, I am sure, would work hand and glove with what we are attempting to do to keep our identification clear through, especially through, repacking operations, and will strengthen the hands of our contractors, and help us in insisting that they maintain the standards which we supply those who are under the market agreement that we have in the State of Idaho.

MR. HAGEN. Thank you very much, Mr. Whiteley.

MR. WHITELEY. Thank you, Mr. Chairman.

STATEMENT OF STANLEY VOGT, REPRESENTING NATIONAL FARMERS UNION

MR. VOGT. Thank you, Mr. Chairman.

MR. HAGEN. Mr. Vogt, were you present yesterday in the hearings?

MR. VOGT. No, I was not, Mr. Chairman.

MR. HAGEN. We heard from the Department and also from Congressman Budge, and from Mr. Kitchen and all these witnesses were for the legislation. The Government suggested two amendments, one

the permissive right to raise the license fee to \$25 to provide the money in order to secure the necessary personnel to properly enforce this proposal.

And the other one to limit the scope of inspection of records so that the Government could not merely indulge in a fishing expedition in reference to alleged violations.

Do you have a statement for the committee?

Mr. Vogt. I have a very short statement, which, with your permission, I can read if you wish.

Mr. HAGEN. Yes, if you will, Mr. Vogt.

Mr. VOGT. Thank you.

Mr. Chairman and members of the committee, I am Stanley W. Vogt, representing the National Farmers Union. I am appearing for the members of our organization who are producers of perishable agricultural commodities. Those members come from many States and are producers of many perishable commodities affected by H. R. 5337 by Mr. McIntire, and H. R. 5818 by Mr. Budge. I should like to speak in favor of these bills.

The National Farmers Union is interested in these bills for three reasons:

1. As producers of perishable commodities we want to be sure that the products that farmers send to market have been graded, sorted, weighed, and labeled correctly when they get into the consumer's hands. If they are not, and the consumer becomes aware of it, the bad effect, both individually and publicly, reacts unfavorably upon farmers as a group.

2. Farmers, while they are producers, are also consumers of perishable farm commodities. In the specialized type of agriculture we have today, hundreds of thousands of farm families depend on a one-crop farm income. Many of them do not have the farm garden or poultry flock such as was the usual case only a few years back. This is largely due to the high industrialization of agriculture, especially in the past 15 years. These specialized farmers buy more and more of their grocery and produce needs from the chain, independent, and cooperative retail stores. So, we are also interested in seeing that farmers as consumers are protected.

The Farmers Union is concerned with the protection of all consumers, whether they are city or farm people. In this regard, it is important that grading, labeling, quality, weights, point of origin, and other pertinent information is correctly noted on packages of perishable foodstuffs and in the procedures of the trade channels through which they pass.

3. The Farmers Union has many cooperatives affiliated with it, and other associations working very closely in the protection of both producers and consumers. These groups are interested in seeing that an honest policy is maintained both for consumers and producers. Only in this way can our economy go forward with the knowledge by all of us that incorporated in our free enterprise system are the morals of integrity.

Mr. Chairman, as a part of this testimony I should like to include an excerpt from a letter received in our office from Mr. Roald Harbo, an employee of the Rocky Mountain Farmers Union which comprises Colorado and Wyoming. This letter was written to Mr. John Baker,

assistant to the president of National Farmers Union and in charge of our Washington, D. C., legislative office.

APRIL 15, 1955.

DEAR JOHN: In working with the potato growers here in the San Louis Valley, I have been asked to write and ask your support of H. R. 5337. This consists of desired amendments to the Perishable Agricultural Commodities Act. It has recently been introduced so is probably in the committee now.

I should also like to include as a part of the testimony a letter addressed to Mr. Harvey Solberg, president of Rocky Mountain Farmers Union, from Mr. Levi A. Clark of Palisade, Colo., who is a fruitgrower. It is very short.

APRIL 14, 1955.

DEAR HARVEY: I have read bill H. R. 5337 and it seems O. K. to me. Also I contacted the managers of the two co-op fruit shipping associations and the board of control and they all gave their approval.

Sincerely yours,

LEVI A. CLARK.

National Farmers Union endorses H. R. 5337 and H. R. 5818, and respectfully urges the committee give serious consideration to their approval. We believe the penalties invoked by the language of the bills are not too severe and, perhaps, are not severe enough in view of the fact that the public, which often does not know or investigate thoroughly what it is buying or selling, can easily be duped.

I want to thank you, Mr. Chairman, for the opportunity to present this statement.

MR. HAGEN. Thank you, Mr. Vogt. Do you have a comment on the suggested two amendments by the Department?

MR. VOGT. The \$25?

MR. HAGEN. That is one of them. And the other one is to somewhat limit the examination of books and records.

MR. VOGT. What was done in the consideration of those proposed amendments yesterday?

MR. HAGEN. They merely presented their evidence on it, and I understand that they are acceptable to Mr. McIntire, the principal author.

MR. VOGT. For the moment, they are O. K.

MR. HAGEN. Any questions, Mr. McIntire?

MR. MCINTIRE. No.

MR. HAGEN. Thank you very much, Mr. Vogt.

MR. VOGT. Thank you.

STATEMENT OF FRED W. BURROWS, EXECUTIVE VICE PRESIDENT, INTERNATIONAL APPLE ASSOCIATION

MR. HAGEN. The next witness on the list is Mr. Fred W. Burrows, executive vice president of the International Apple Association, Inc. I have a letter here to which is attached Mr. Burrows' statement, which will be handed to the reporter for inclusion in the record.

(The letter and statement referred to follow:)

INTERNATIONAL APPLE ASSOCIATION, INC.,
Washington, D. C., May 27, 1955.

HON. GEORGE M. GRANT,

*Chairman, Domestic Marketing Subcommittee, House Office Building,
Washington 25, D. C.*

DEAR MR. GRANT: I had expected to return to Washington in ample time to present personally to your committee the views of the members of International Apple Association on H. R. 5337 and 5818, amendments to the Perishable Agri-

cultural Commodities Act. At the last minute I find that I am unavoidably detained in Detroit in connection with association matters, and, therefore, beg to be excused as a witness on Friday, May 27.

There is, however, enclosed with this letter a statement giving the views of our members in connection with these two bills, and I will greatly appreciate you and your committee giving these views careful consideration. As you will see from this statement, there is not the unanimous approval of these amendments throughout the fruit and vegetable industry that has been expressed by some of the witnesses who have already appeared before you.

It is our considered opinion that the rights of the individual need safeguarding in this act.

With sincere regret that I am unable to appear before you in person, I am,
Yours very truly,

FRED W. BURROWS,
Executive Vice President.

STATEMENT OF FRED W. BURROWS, EXECUTIVE VICE PRESIDENT, INTERNATIONAL APPLE ASSOCIATION, INC., ON H. R. 5337 AND 5818, PROPOSED AMENDMENTS TO THE PERISHABLE AGRICULTURAL COMMODITIES ACT, 1930

This statement is submitted on behalf of the International Apple Association with offices at 1302 18th Street NW., Washington 6, D. C. The association is a nonprofit membership organization serving the fruit and vegetable industry with emphasis on apples and winter pears. The membership is composed of producers, distributors (wholesale and retail), processors, exporters, importers, and allied industries. Its members produce and/or distribute in excess of 50 percent of all the apples and winter pears produced commercially.

We are grateful for this opportunity of presenting, for your consideration, the views of our membership and board of directors on the proposed revisions of the Perishable Agricultural Commodities Act.

After canvassing our membership and board of directors, we find several of the proposed amendments to be controversial. Therefore, we will discuss each amendment separately.

Section 2 (5)—Misrepresentation

We find mixed reaction to the elimination of the words "for a fraudulent purpose." Mostly, the reaction is in favor of the proposed amendment. However, we do wish to submit the reasoning of those who oppose the elimination of such wording from the present law.

Briefly, the proposed amendment would bring the simple act of misrepresentation by a licensee, whether fraudulently or innocently, in conflict with the law. Under such conditions the Secretary could refuse to issue a license or could bring about suspension or cancellation of a license.

We are inclined to believe that the words "for a fraudulent purpose" serve as a protection for those who may innocently misrepresent. For example, a distributor may be handling apples marked "U. S. No. 1" by the shipper. By the time they reach the wholesale level they are no longer in grade. Unknowingly he may sell them as marked. When such is called to his attention he will undoubtedly make the necessary adjustment, but without the phrase "for a fraudulent purpose" his license could be in jeopardy.

We find no opposition to the addition of the words "or region of origin."

Section 4 (d)—Coverage and felony

We find no objection to the proposal to extend the coverage of this section which allows the Secretary to withhold issuance of a license for any practice of the character prohibited by this act pending an investigation.

However, we do find unanimous disapproval to the proposed amendment making it mandatory for the Secretary (even after investigation) to refuse a license to anyone who has ever been convicted for a felony. Many people have made mistakes, have been penalized for them, and have later become good citizens and ethical businessmen.

We believe the word "shall" should be changed to "may." The Secretary should have the authority to withhold the license after an investigation and hearing, provided the conditions warrant such action. To make such action mandatory is too severe in our opinion.

We find considerable variance of opinion on this proposed amendment. We understand it was written to take care of the professional bankrupt. Those who

oppose it are very strong in their belief that there should be some other way to handle the professional bankrupt. They believe that it has no place in this law and that such matters are rightly covered by the Bankruptcy Act.

The very nature of the fresh-fruit and vegetable industry has caused many honest men to go broke. Furthermore, an unexpected or unjust tax ruling, or a labor dispute might force bankruptcy and cause unnecessary hardship if this proposal were written into the PAC Act.

Section 8 (b)

We find no objection. We approve.

Section 13 (a)—Inspection without complaint

This amendment would eliminate the words "in the investigation of complaints under this act" relative to inspection of accounts, records, etc. It also adds a second sentence to this paragraph allowing inspection of "any lot of any perishable commodity."

This amendment would allow the Secretary, or his duly authorized agents, the authority to inspect all accounts, records, etc. and any lot of any perishable commodity without a complaint even being filed, and he could suspend or cancel a license for refusal to permit such actions without a complaint being filed.

We find strong and unanimous disapproval of removing a complaint as a basis for inspection of accounts, records, etc. Such authority could lead to harassment and is actually an infringement on a person's constitutional rights.

Also, since the Secretary or his agents can file a complaint, as the law now stands, it should not be difficult to comply with the present act. Furthermore, it is my understanding that the filing of a complaint is not difficult or burdensome. We, therefore, oppose this proposed amendment.

We are informed that the United States Department of Agriculture, in their testimony on these bills, will suggest a substitute for the first sentence of the proposed amendment to section 13 (a) about as follows: "The Secretary or his duly authorized agents shall have the right to inspect such accounts, records, and memoranda of any commission merchant, dealer, or broker as may be material (1) in the investigation of complaints under this act, or (2) to the determination of ownership, control, packer, or State, county, or region of origin in connection with commodity inspections, or (3) to ascertain whether section 9 of this act is being complied with, and if any such commission merchant, dealer, or broker refuses to permit such inspection, the Secretary may publish the facts and circumstances and/or, by order, suspend the license of the offender until permission to make such inspection is given."

We approve the above substitute language.

We appreciate the opportunity of presenting the views of the International Apple Association on the proposed amendments before the subcommittee.

MR. HAGEN. The next witness is Mr. D. W. Ward of the Philadelphia Terminal Market Association. Is Mr. Ward present? In the event that he desires, he may submit a statement at a later date for incorporation in the record at this point.

MR. MCINTIRE. Mr. Chairman, may we perhaps fix a limit of maybe a week or so in order that the record may be closed?

MR. HAGEN. I think that a week from Saturday will be a reasonable time.

MR. MCINTIRE. Yes.

MR. HAGEN. For the completion of the record and that nothing else will be accepted after that date.

Are there any other witnesses who wish to testify on this subject?

STATEMENT OF GEORGE GRANGE, DEPUTY DIRECTOR, FRUIT AND VEGETABLE DIVISION

MR. MCINTIRE. Mr. Chairman, may I ask Mr. Grange from the Department to take the stand to permit me to ask a question or two of him?

MR. HAGEN. If you will come forward, Mr. Grange, and may I say that if any of you gentlemen want to comment on any of the matters

that were in yesterday's testimony or in the hearing today, feel free to do so.

Mr. McINTIRE. Mr. Grange, there is just one brief point: Do you have a copy of the bill before you?

Mr. GRANGE. Yes.

Mr. McINTIRE. On page 2, in relation to that portion of the bill in paragraph (b)—and may I refer you to approximately lines 13, 14, 15, and 16, which deal with this matter of a conviction of a felony: Is it your interpretation of this wording that the extent to which a conviction of a felony, or the extent to which an applicant may have been convicted and fined in any State in a Federal court, is involved in the consideration of his application, but that the Secretary's decision is not mandatory under this law, and that, in interpreting such an item in the record of the applicant, the Secretary is not forced by law to refuse the license?

Mr. GRANGE. Mr. McIntire, it is a little difficult to pick this particular section up, as given in the bill, out of context with the present act.

Mr. McINTIRE. I appreciate that.

Mr. GRANGE. And discuss it.

Mr. McINTIRE. Can you put it in perspective and clear it up for us?

Mr. GRANGE. We have discussed that in the Department and the present language of the PAC Act regarding licensing, the denial or suspension of licenses, is stated in a rather complex manner. There are 3 or 4 paragraphs that refer to such matters; they are divided between making investigations prior to the issuance or denial of the license, giving the facts that can be taken into consideration, and then there are other paragraphs that have to do with the actual issuance, too, divided between the investigation stage and the other stage.

It would be our opinion that the present prerogative that the Secretary has of being able to weigh these facts and the evidence, and then make a determination as to whether or not an applicant should be held as being unfit to receive a PACA license should be one that would hold.

In the particular paragraph that this felony is found—that this felony change was inserted—there is no provision at the moment for such determination.

I, myself, do not have sufficient legal training or legislative background to say whether or not the provision of the preceding paragraph, which does give the Secretary such authority, could be held applicable to this or not. I personally think that it should be.

One possibility that has been discussed, and of course would clarify it very specifically, would be to change the last verb in that particular section which appears now on line 13 of page 3, to "the Secretary may refuse" instead of "shall refuse" as it is now written. That has not been changed. It appears that way in the present act.

Mr. McINTIRE. Mr. Grange, in section 3—section 4, line 15, page 3, in paragraph (e), is an addition to the act, is it not, that is not found in the existing act; that is a new section?

Mr. GRANGE. Which one is that?

Mr. McINTIRE. Beginning in line 15, page 3.

We are adding in this bill that section (e) which says that the Secretary "shall refuse"—

Mr. GRANGE. That is entirely new.

Mr. McINTIRE. That is new.

Mr. GRANGE. That "shall" of course is also conditioned, Mr. McIntire, by the proviso at the end that an acceptable surety bond, or assurance satisfactory to the Secretary—

Mr. McINTIRE. That is right.

Mr. GRANGE. So that the mandatory part of this is—

Mr. McINTIRE. Tempered.

Mr. GRANGE. Yes; tempered by the latter provision.

Mr. McINTIRE. But the very court records that may be in existence against the applicant in themselves do not bind the Secretary and he could require what is considered to be adequate bond to cover that question under this provision; could he not?

Mr. GRANGE. Yes; that is my feeling.

Mr. McINTIRE. It does not close the door solidly or irrevocably against someone who may unfortunately have had a conviction?

Mr. GRANGE. That would be my—and I am quite sure I speak for my associates—that would be our recommendation concerning it.

Mr. McINTIRE. Mr. Grange, do you think it would weaken the legislation substantially if, in that section, there on line 17, if that word "shall" were changed to "may"?

Mr. GRANGE. That would be the simplest way to clarify it, in my opinion. We are speaking now only of section 2 are we not, Mr. McIntire?

Mr. McINTIRE. Well, it seems to me it was in both sections.

Mr. GRANGE. But in section 3, Mr. McIntire, I think we would say that the "shall" should be retained, because we have the authority there.

Mr. McINTIRE. Yes.

Mr. GRANGE. To obtain the bond and other assurances satisfactory to the Secretary. If it were a case where the man's background, in the event that took place, and it is obvious that in order to give proper protection to the people with whom he is doing business, that would be taken into consideration in determining what was a proper assurance.

Mr. McINTIRE. I am referring to section 2, because section 3, on page 3, Mr. Grange, deals with bankruptcy.

Mr. GRANGE. That is correct.

Mr. McINTIRE. And it does not deal with the matter of competency.

Mr. GRANGE. That is correct.

Mr. McINTIRE. And over on page 2—in that paragraph it leads off with the word "may" but you say that this is a little out of context, if this were read by itself and not in relationship to other parts of the act?

Mr. GRANGE. There are—and someday I think the committee may wish to give consideration to the revamping to clarify some of these provisions that have been that way for many years, and have operated satisfactorily but still, to take someone who is not thoroughly conversant with another person, to lead them by the hand to show exactly what is applicable and what is not.

There are paragraphs in the present act which makes the rejection of an application dependent upon the Secretary's finding that the applicant is unfit to engage in the perishable agricultural business.

There would be, I am quite sure, some legal question as to whether that also can be applied in section 2 of this bill; so in order to clear it up without any doubt, the simplest way of doing it would be to make that permissive in the last sentence of the paragraph, rather than mandatory.

Mr. McINTIRE. Oh, I see your point now. I was looking at the wrong line. You are referring to——

Mr. GRANGE. To line 13.

Mr. McINTIRE. On page 3.

Mr. GRANGE. Yes.

Mr. McINTIRE. I was a little confused there.

Mr. HAGEN. Mr. McIntire, I would think also that it would be a little harsh to provide arbitrarily that the man who has gone into bankruptcy once will have to furnish a bond. He might have gone bankrupt 15 years ago.

Mr. McINTIRE. The bill provides for 3 years.

Mr. HAGEN. It is within 3 years?

Mr. McINTIRE. Yes.

Mr. HAGEN. I am no expert in this fruit and vegetable business but I understand it is a very risky business.

Mr. GRANGE. There are some who are singularly successful and there are some who are singularly unsuccessful.

Mr. HAGEN. Of course, that 3-year period is a protection; it is unlikely that if they have gone bankrupt within the last 3 years they would be in any real position to guarantee any financial stability to sellers.

Mr. GRANGE. But, Mr. Hagen, the way the bill is now written, the Secretary could, if he so desired, say that no surety or no bond was satisfactory assurance to him. You see, there is nothing mandatory about the obtaining of a bond, or the amount of the bond; the amount is not specified, so that you could accomplish the same end as you have in mind in certain cases where you might not be justified, or it might not be necessary in order to protect the members of the trade, or those with whom he does business, within the Secretary's judgment, that he have a bond.

Mr. HAGEN. Of course the Secretary would not be exercising very wise judgment, within the confines of the statute, and he probably would not do it, to require just a dollar bond; such a bond would not mean anything. He would really be violating the intent of the statute if he did it, with this mandate in it.

Mr. GRANGE. Well, if the evidence clearly shows that the individual was a responsible person and that, through many of these people—and many of these people also are engaged in producing and growing crops as well as selling them—they could have a freeze such as the one we have just had in the southeastern part of the country——

Mr. HAGEN. May I interrupt you?

Mr. GRANGE. Certainly.

Mr. HAGEN. I think you could cure that by saying, on page 4, that the applicant shall furnish a bond of such nature and amount as may be determined by the Secretary.

I am sorry; that is in there.

Mr. GRANGE. I wonder, Mr. Hagen——

Mr. HAGEN. I am sorry I raised the point. You can get the assurance——

Mr. GRANGE. There is one thing, Mr. Hagen, I would like to point out in connection with this matter of furnishing bond. As Mr. Kitchen could have told you yesterday—and I can too—the matter of requiring a bond for PACA license is not a new subject at all. Back when the act was first passed it was given very careful consideration at that time, that there might well be a standard bond provision. We have other comparable acts where a bond is required in order to show that the individual has sufficient, adequate financial status in order to participate.

Now, one thing to keep in mind on the bond here is that a license under the PACA authorizes a man to operate as a dealer, commission merchant, or a broker.

In the matter of commission merchants, they are handling other people's commodities; they have not bought it from them; they are handling it for a commission.

We have had a number of instances of bankruptcy where that person who has sold on consignment did not even recover from the bankrupt individual the value of the goods that was in that person's hands at the time he went bankrupt, or that he had handled shortly before the bankrupt proceedings.

We view that as even more serious than not getting paid for something that the bankrupt has bought during the preceding period because it never was his property at any time.

We think that there are instances of bankruptcy action where it permits the individual to go back into the business without furnishing some type of satisfactory financial assurance, which would do a disfavor, particularly to the distant producers and shippers who are dependent upon that man to handle their commodities for them.

Mr. McINTIRE. That would touch substantially on a situation where one can roll an account on consignment, wherein that commodity goes into the physical inventory of the reserve. And if for any reason he folds up financially there is no way to identify who shipped that stuff in, it becomes lost to the regional shipper, and he has only his comparable place with all other creditors.

Mr. GRANGE. If they are keeping those accounts and records under the PACA they can be identified. You are right that we encounter instances where it has been difficult to get the proper identification.

Mr. HAGEN. Is there anyone else who has any further comment?

Is Mr. Ward here?

Mr. WARD. Yes, sir.

Mr. HAGEN. Mr. D. W. Ward, Philadelphia Terminals Marketing Association.

Mr. GRANT. May I say one thing first?

Mr. HAGEN. Yes.

Mr. GRANT. In reading the Secretary's report on the bill this morning, I note that the ditto copy has a typographical error. I believe that the original letter is correct, but in making our recommendation concerning the changing in section 5-A of the bill, the word "county" is used there in referring to origin rather than "country."

Mr. HAGEN. Very well. That correction will be made in the record. Thank you, Mr. Grant.

The next witness will be Mr. Ward, of the Philadelphia Terminal Association.

STATEMENT OF D. W. WARD, GENERAL MANAGER, PHILADELPHIA TERMINAL MARKETING ASSOCIATION

Mr. WARD. I have prepared a statement. Do you want me to take the time to read it?

Mr. HAGEN. Suit your own pleasure, Mr. Ward.

If you merely want to offer the statement in evidence and then comment separately, that would be all right if that is what you wish to do.

Mr. WARD. It will save time, I am sure.

My name is D. W. Ward and my address is 208 Walnut Street, Philadelphia 6, Pa.

I am general manager of Philadelphia Terminals Marketing Association. The membership of this association comprises the approximately 40 firms which receive in railroad carlots and sell at wholesale in the Philadelphia wholesale produce market all of the interstate receipts of fresh vegetables received by rail at Philadelphia for distribution through other than chainstore channels.

In addition, many of our members operate wholesale jobbing houses in the produce market area known as Dock Street where they do a substantial jobbing business and also receives a large volume of trucklot shipments of fresh fruit and vegetables from the growing areas of the South and elsewhere in the United States.

A number of our members are also among the principal receivers of citrus fruits in car and trucklots for sale at the wholesale citrus auction.

In their various operations our members handle one-half of all the wholesale produce reaching the Philadelphia market through other than chainstore channels.

The wholesale jobbers constitute one of the three principal components of the fresh fruit and vegetable wholesale market, the others being the receivers whom I represent, and the auction receivers. The jobbers maintain stores at which they receive, and from which they job to retailers and others, the perishable produce bought by them at the daily organized sales from carlot receivers. Many of these jobbers also receive produce in truck lots brought in over the road.

The jobbers are represented by the Association of Fresh Fruit and Vegetable Distributors, Inc., whose president has requested that I speak for it before this committee. I have attached to this statement, as Exhibit A, a copy of the letter, the original of which I now respectfully present to the committee, written and signed by Mr. Albert Levin, president of the association of Fresh Fruit and Vegetable Distributors, Inc., requesting that the committee permit me to speak in behalf of its members.

Philadelphia is, of course, one of the larger centers of the Nation for the wholesale distribution of food. The Agricultural Marketing Service reports that 66,811 equivalent carlots of fresh fruit and vegetables were received by rail and truck in Philadelphia during 1954 to feed the approximately 4 million people in the metropolitan area and to provide supplies for the trade territory reached by the Nation's third largest wholesale produce market.

I have spent 29 years in the fresh fruit and vegetable industry and for a period of 7 years have held my present position, in the course

of which I have given testimony on behalf of the industry at legislative and administrative hearings—for example, before the ICC and I have appeared as spokesman for our industry before the public. In my position as manager, it is my duty to keep continuously and intimately informed of business conditions within the Philadelphia wholesale fresh fruit and vegetable industry and to keep myself apprised of the sentiments of its members. In all of my activities on behalf of the membership of my association, I am under the direction and control of the board of directors consisting of principals engaged in the wholesale fruit and vegetable business as carlot receivers, who on account of their extensive influence and experience in the wholesale fruit and vegetable business have been selected by their business competitors to serve the interests of the entire industry. It is at their request and direction that I appear here today.

Members of the wholesale produce industry have been very much aware of and have followed with lively interest the proposal designated H. R. 5337 to amend the provisions of the Perishable Agricultural Commodities Act of 1930 introduced by Congressman McIntire on March 30, 1955.

May I say at the outset that the approximately 100 receivers and jobbers for whom I speak are all licensed under the Perishable Agricultural Commodities Act of 1930, that they all are subject to its provisions, being engaged in interstate commerce, and all are aware of and appreciative of the stabilizing effect upon their somewhat hazardous business of the act of 1930 as amended.

We believe that the grading, labeling, and marketing provision of H. R. 5337 will serve a useful purpose and we wish to record our endorsement of and support for section 1, of H. R. 5337.

Believing that the licensing provisions of the act of 1930 have contributed largely to its successful operation and to the stability of the industry, we approve of all of the provisions of section 2 of the proposed bill, which strengthen the powers of the Secretary of Agriculture to withhold a license from any applicant whose record fails to conform to the statutory standards. Moreover, sections 3 and 4 of H. R. 5337, enlarging the scope of the Secretary's powers to refuse a license in cases of bankruptcy, is endorsed by our associations. We believe that a provision of this kind is in the interest of the industry.

Our only misgiving about the bill and the only section to which we feel that we must assert our strong convictions in opposition is section 5, and even in this section our objection goes only to a part.

In our judgment section 5 is objectionable insofar as it would have the effect of giving the Secretary the unrestricted right to inspect all accounts, records, and memoranda, of any commission merchant, dealer, or broker. It would accomplish this by merely omitting from section 13 (a) as now in force the phrase which limits the right of inspection to such records as may be material for the determination of complaints under the act.

We recognize that in the enforcement of the marking, grading, and labeling provisions, the Secretary should have the right to inspect documents evidencing sale or control of any lot being inspected, but we believe that the Secretary should not have the unrestricted right to inspect all accounts, records, and business memoranda, not necessary to the investigation of a specific complaint under the act. It

is the considered opinion of the members of the Philadelphia produce market that the proposal would substantially change and enlarge the visitorial powers of the Secretary of Agriculture under the act.

Many procedural safeguards now established by the regulations would no longer be required if the right to inspect became absolute and unqualified. Now the merchant is protected from harassment because his books are protested against arbitrary or capricious inspection by the requirement that a complaint shall have been filed against him. Moreover, he is entitled to notice of any complaint, which must be specific and detailed, and has full opportunity to make answer and defend himself. The present procedural safeguards conform to due process. With the amendment the Secretary would become the unchecked supervisor of every produce merchant with unrestricted right to police the latter's internal affairs.

Section 6 (b) of the present act provides:

Any officer or agency of any State or Territory having jurisdiction of commission merchants, dealers or brokers in such State or Territory and any employee of the United States Department of Agriculture or any interested persons may file, in accordance with rules and regulations of the Secretary, a complaint of any violation of any provision of this Act by any commission merchant, dealer or broker and may request an investigation of such complaint by the Secretary.

The key provisions of this section are that a complaint, by whomsoever filed, must be filed in accordance with the Secretary's regulations and that any investigation requested in such complaint is to be made by the Secretary.

In his regulations, which have the force of law, the Secretary (sec. 47.27 (b)) has designated the Assistant Administrator (as defined) as the only officer of the Department authorized to issue formal complaints. It would seem that this restricted procedure has worked satisfactorily in the past. If it did not, the Secretary, under existing law, certainly has the power to broaden the authority of his employees to issue complaints, by means of revised regulations. That he has not done so is evidence that the need was not felt. In any event, it seems unwise and unnecessary to amend the basic law to accomplish what could be reasonably done by regulation, if the need for wider complaint authority were in fact considered to exist.

Mr. T. C. Curry, who for many years, as members of this committee will recall, was Chief of the Regulation Branch of the Department and, as such, responsible for administering the enforcement provisions of the PACA and who is now retired and living in DeBary, Fla., has publicly stated in a letter to the editor of the Packer, a national weekly newspaper serving the produce industry, that—

as the law now stands, there is authority for inspecting books and records but this authority does not extend to the commodities involved.

This letter was dated April 5, 1955, and was published in the Packer for April 8, 1955.

Mr. Curry's experience and knowledge of the act in operation is probably unique. His opinion will undoubtedly receive great weight before this committee and in his letter he does not even touch upon the proposal to which my objection is addressed. He does, of course, stress the importance of the other changes proposed by the McIntire bill. May I reemphasize to the committee that the Philadelphia produce dealers wholeheartedly support all of these other changes. It is

only on the single point of giving the Secretary carte blanche to inspect all business records at any time without requirement that there be a complaint filed and notice given the dealer, that we wish to put our opposition on record.

We believe, in conclusion, that such an extension has been shown by the evidence of the Department's own regulations to be unnecessary. It would abandon presently recognized concepts of due process and would bring grave possibilities of abuse.

We respectfully submit that the committee eliminate this proposal from the bill as finally reported out of the committee.

Our suggestion for accomplishing the needed change in H. R. 5337 in such a way as to preserve the right to inspect records in connection with the grading, marking, and labeling of commodities is attached hereto as exhibit B. The suggested changes are italicized.

As an alternative to our proposal we have studied a substitute draft of the first sentence of section 5 which we believe has been presented to this committee by Mr. C. W. Kitchen of the United Fresh Fruit and Vegetable Association, reading as follows:

The Secretary or his duly authorized agents shall have the right to inspect such accounts, records, and memoranda of any commission merchant, dealer, or broker as may be material (1) in the investigation of complaints under this Act, or (2) to the determination of ownership, control, or State, country, or region of origin in connection with commodity inspections, or (3) to ascertain whether section 9 of this Act is being complied with, and if any such commission merchant, dealer, or broker refuses to permit such inspection, the Secretary may publish the facts and circumstances and/or, by order, suspend the license of the offender until permission to make such inspection is given.

This change would, in our opinion, meet the objections to the bill which have been expressed in my testimony.

EXHIBIT A

THE ASSOCIATION OF WHOLESALE FRUIT AND VEGETABLE DISTRIBUTORS, INC.,
Philadelphia, Pa., May 25, 1955.

HON. HAROLD D. COOLEY,

Chairman, House Committee on Agriculture, New House Office Building,
Washington, D. C.

MY DEAR CONGRESSMAN COOLEY: The Association of Wholesale Fruit and Vegetable Distributors, representing the wholesale fresh fruit and vegetable jobbers in the Philadelphia market, request that you permit Mr. D. W. Ward to speak for our membership when he appears before your committee on May 27, 1955.

Mr. Ward has been fully informed of our views with regard to H. R. 5337 and is fully authorized to speak on our behalf.

Very truly yours,

ALBERT LEVIN, *President.*

EXHIBIT B

SEC. 5. Section 13 (a) of such Act (7 U. S. C., sec 499m (a)) is amended to read as follows:

"(a) *In the investigation of complaints under this act* the Secretary or his duly authorized agents shall have the right to inspect *such* accounts, records, and memoranda of any commission merchant, dealer, or broker, *as may be material for the determination of any such complaint* and if any such commission merchant, dealer, or broker refuses to permit such inspection, the Secretary may publish the facts and circumstances and/or, by order, suspend the license of the offender until permission to make such inspection is given. The Secretary or his duly authorized agents shall have the right to inspect any lot of any perishable agricultural commodity covered by this Act, *and the invoice, waybill or other document evidencing sale or control of such lot* and if any commission merchant, dealer, or broker having ownership of or control over such lot fails or refused to authorize or allow such inspection, the Secretary may, after thirty days' notice

and an opportunity for a hearing, publish the facts and circumstances and/or, by order, suspend the license of the offender for a period not to exceed ninety days."

We approve all of the amendments offered by the McIntire bill with the exception of part of section 5 which has to deal with the rights to inspect. I am told since arriving this morning that the Secretary of Agriculture has presented an amendment. I have seen it, and I notice that it is similar to the one worded in our statement.

Mr. McINTIRE. Mr. Chairman, with the amendment as you have indicated you had a chance to see this morning, does that substantially correct the section as you would wish?

Mr. WARD. It does.

Mr. HAGEN. Also, Mr. Ward, the Department offered a suggestion of a permissive grant to the Secretary to increase license fee to \$25 if that was necessary to carry the costs of the provisions incorporated in this bill. Is that agreeable to you?

Mr. WARD. I learned of that this morning but I am sure it is agreeable to the people whom I represent.

Mr. HAGEN. So actually with those two amendments your objections to the bill are resolved. Is that correct?

Mr. WARD. That is correct.

Mr. McINTIRE. In relation to fees, I am assuming that there exists now, and there has over a long period of time existed, a close relationship, correlation and concentration in the trade and the Department over the matter of fees, anyway. As a representative of the trade you probably presume that any change in fee schedules will be the result of conferences between the trade and the Department of Agriculture as to the cost of services, and so forth. Do you feel sure the Department would continue to do as they always have done in the past?

Mr. WARD. Yes, that is understood.

Mr. HAGEN. That statement was made in the hearing yesterday, as a matter of fact, that they would hold hearings on it.

I think you can be satisfied that the amendments suggested by the Department will be adopted because Mr. McIntire approves of them.

Mr. WARD. I would be wasting your time to comment further.

Mr. McINTIRE. I don't know whether you had arrived at the time we were discussing the bill.

Have you a copy before you?

Mr. WARD. I do.

Mr. McINTIRE. If you would turn to page 3, please, line 13. We were discussing whether or not it would be helpful in this wording if, on line 13 there, we changed the word "shall" to "may," giving the Secretary a little broader authority in making his final decision in relation to some of the matters pertaining to an applicant's record rather than using the word "shall."

It seemed that perhaps the word "shall" was a bit severe, that it bound the Secretary and precluded him from using his discretion in certain mild cases. There has been some discussion this morning as to changing that word to "may," making it a little clearer that there is an area of judgment in the items which may be presented from an analysis of the applicant's past history.

Mr. WARD. I think that would be preferred. Certainly some misconduct which happened many years past may have been atoned for,

and as the act is now proposed it would not allow any leeway to the Secretary to recognize a good, reputable dealer, regardless of what his past may have been.

Mr. McINTIRE. Thank you.

Mr. HAGEN. We want to thank you, Mr. Ward, for your statement. Are there any other witnesses?

STATEMENT OF W. M. CASE, EXECUTIVE DIRECTOR, NATIONAL POTATO COUNCIL

Mr. CASE. I am W. M. Case, executive director of the National Potato Council.

I have been informed that the potato growers in California are disturbed by this point just brought up by Congressman McIntire, that it was in the nature of a death sentence.

They were in accord that any such individual should be punished, but some of them thought maybe that was too severe. They have not made up their minds at the present time whether they wanted to propose a change in that or not, and thought probably they would by the time it got to the floor.

I believe, Mr. Chairman and Mr. McIntire, that changing that to "may" from "shall" will meet their objections.

Mr. HAGEN. A man might have committed a crime of passion at age 20, and 20 years later he should not suffer for it.

STATEMENT OF MISS ELETHEER BESLEY

Miss BESLEY. I am Eletheer Besley. What I wanted to say in connection with that is this: We received two letters from the Pacific Northwest from representatives of apple growers out there who pointed out that a man could be convicted of manslaughter in connection with an automobile accident and thereby become guilty of felony, which would not in any way impair his ability to conduct a business. But if the word "shall" were left there you leave the Secretary no latitude.

Mr. HAGEN. That is correct in California. A conviction of drunken driving is sometimes considered a felony.

Mr. GRANGE. While we are speaking on this point, may I add one thing: It was not the Department's opinion or intention that a type of crime such as Miss Besley was describing would be of such nature that the Secretary would find that individual to be unfit to engage in the produce business.

We felt that we had sufficient authority as the bill was now worded to be able to handle it, but I believe that the proposal that Mr. McIntire has made would clarify the point so that there would be no doubt concerning the leeway that the Secretary would have on such a matter.

Miss BESLEY. That was in the testimony filed earlier by Mr. Burrows, Mr. Chairman.

Mr. McINTIRE. Mr. Chairman, I believe there is in the file of the committee a letter dated May 23 addressed to the chairman of the subcommittee, Hon. George M. Grant, from the American Farm Bureau Federation, signed by John C. Lynn, legislative director.

I ask unanimous consent that it be made part of the record at this point.

Mr. HAGEN. So ordered.

(The letter is as follows:)

MAY 23, 1955.

HON. GEORGE M. GRANT,

House Office Building, Washington, D. C.

DEAR CONGRESSMAN GRANT: The American Farm Bureau Federation is very much interested in the proposed legislation, H. R. 5337, to amend the provisions of the Perishable Agricultural Commodities Act. We favor the provisions of this legislation.

The Perishable Agricultural Commodities Act has, since its passage, been actively supported by farmers. The licensing of handlers and other provisions of the act have been valuable in the marketing of perishable agricultural commodities.

From time to time various improvements have been made in the act in order to see that it meets current marketing conditions. We believe the changes proposed in H. R. 5337 provide for continued improvement in law.

The proposed amendment providing for more effective action against misbranding is sound. Since the advent of consumer packaging, the problem of misbranding has become more acute. The changes suggested strengthen the act by adding region of origin and deleting the requirement that fraudulent purpose must be proved in the case of misbranding.

While only a minority of people are involved, the amendment tightening the issuance of licenses under the act would be a definite improvement.

We have some reservations about broadening the authority of USDA to inspect book and records. While this additional authority may be necessary, we recommend that this matter be studied carefully and that adequate safeguards are provided in order to avoid abuse of this power.

We appreciate the opportunity to present our views on H. R. 5337 and request that this letter be made a part of the hearing record.

Sincerely yours,

JOHN C. LYNN, *Legislative Director.*

Mr. HAGEN. Gentlemen and ladies, I believe that concludes our hearings on this matter.

No one has appeared in opposition, so I would predict that the bill will be approved and the two amendments offered by the Department will be adopted, and this amendment changing the word "shall" to "may" will be adopted. That is merely a prediction.

Mr. MCINTIRE. May I record myself as expressing my sincere appreciation to the witnesses who have appeared in this hearing, for the assistance and counsel of the Department in their testimony relative to this bill, and the suggestions made by all of the witnesses in an effort to bring about constructive improvements to the PAC Act.

Mr. HAGEN. And if anyone has any friend or associate who wishes to submit a statement we will leave the record open until Saturday following this coming Saturday for such insertion.

(The following statements were submitted to the subcommittee:)

YAKIMA VALLEY TRAFFIC ASSOCIATION,

Yakima, Wash., May 26, 1955.

Mr. HAROLD D. COOLEY,

Chairman House Agriculture Committee,

House of Representatives, Washington, D. C.

DEAR MR. COOLEY: The Yakima Valley Traffic Association, which represents the growers and shippers of deciduous fruits in the Yakima Valley in the State of Washington, wish to inform you of their views in regard to H. R. 5337 and other similar bills which propose changes in the Perishable Agricultural Commodities Act.

Section 2 (5): We are opposed to the elimination of the words "for a fraudulent purpose" from the present language of the bill. We feel that elimination of these words would open the door for unscrupulous buyers to claim mis-

representation of quality, etc., when the market is against them. An example—a seller in describing a certain lot of apples says it is good quality, color, etc. On arrival of the apples the buyer claims the apples are not as good as quality or color as the seller said they were. However, the apples did meet all the grade requirements of the marks or label on the box. Experienced fruit inspectors can inspect the same lot of fruit and come up with two different interpretations of quality, color, etc. of apples. Because of the human element involved, in interpretation of quality, etc., we can see no end of trouble if the buyer is determined to reject a car of fruit on arrival if the “for a fraudulent purpose” is deleted from the present law.

We feel the present wording is a protection for our shippers that we need. If the buyer feels the commodity is not what he bought, he has the privilege of having a Federal inspector inspect the commodity and if it is not up to the grade he bought, the present law protects him. We see no objection to the addition of “or region of origin” to this section.

Section 4 (d) : We have no objection to the addition of “any officer or holder of more than 10 per centum of the stock” to the language of the act. However, we do feel that the addition of “was convicted of a felony in any State or Federal court” is a little too strict. There is no provision to permit for a man who has made a mistake and served his sentence and has demonstrated by his action his desire to go straight, from ever having a license. It would also deprive a person from obtaining a license who was convicted of say, a manslaughter case because of negligence in driving an automobile. We feel the secretary should have some leeway to use his best judgment after thoroughly investigating the case.

Section 4 (e) : We approve this amendment.

Section 8 (b) We approve as amended.

Section 13 (a) : We think the wording “In the investigation of complaints under this Act” should be retained at the beginning of this section.

We do not think the licensees should have to permit inspection of their books at the whim of some agent. The addition of the right to inspect any lot of any perishable agricultural commodity, etc., is probably a good thing because the commodity could be disposed of before a complaint could be issued. But in the case of records, etc., we feel a complaint should first be issued.

Yours very truly,

YAKIMA VALLEY TRAFFIC ASSOCIATION,
F. W. SHIELDS, Jr., *Secretary-Manager*.

STATEMENT OF ERNEST FALK, NORTHWEST HORTICULTURAL COUNCIL

The Northwest Horticultural Council is composed of the following organizations of fruitgrowers and shippers in Oregon and Washington:

Washington State Apple Commission
Winter Pear Control Committee
Hood River Traffic Association
Rogue River Valley Traffic Association
Wenatchee Valley Traffic Association
Yakima Valley Traffic Association

The member traffic associations are composed of growers, marketers, and shippers of deciduous fruits in their respective areas. The council represents the growers of practically 100 percent of all apples and in excess of 90 percent of all other deciduous fruits grown commercially in the 2 States, totaling approximately 9,000 growers.

Fruitgrowers in the Northwest supported the enactment of the Perishable Agricultural Commodities Act and generally have been well pleased with the administration of the act by the Department of Agriculture. We have reviewed H. R. 5337 and H. R. 5818, which appear to be identical, and wish to submit the following comments for consideration by the committee:

I. The first amendment is to section 2 (5). The amendment would add the words “or region” in line 10 and would delete the words “for a fraudulent purpose,” which follow the word “misrepresent” on line 7 of page 1 of the bills.

We endorse the addition of the words “or region.”

We are opposed to the deletion of the words “for a fraudulent purpose,” and believe that their presence in the law serves a useful function.

All apples and other fruits shipped from the State of Washington in interstate commerce must be inspected by the Federal-State Inspection Service and either an inspection certificate or a permit issued. Fruit is sold by grade, but, of

course, there is a variation in color, or condition, within a grade. A seller in the course of normal "puffing" of his merchandise might assert that it was extra good color or condition, whereas the buyer might feel that the color or condition was not quite as good as represented by the seller, even though the fruit measured up to grade; of course, there is room for an honest difference of opinion on the extent of color. Deletion of the words "for a fraudulent purpose," might encourage complaints by buyers about adjectives used by seller, even though the commodity met the State or Federal grade, whereas, if the buyer has to establish that the seller "puffed" for a fraudulent purpose, he would be less inclined to raise the issue. Misrepresentation by mark or label of a fact, i. e., the grade, etc., of a commodity is something that can be established, whereas a representation of an opinion presents an altogether different question.

We feel that the present law is satisfactory in this particular and should not be amended.

II. Section 2 of the bills seeks to amend section 4 (d) of the act. We approve the amendment appearing in lines 9 through 13, which would preclude a person who violated the law from obtaining the benefits of a license as a partner or stockholder in a corporation.

However, we feel that the provision in line 15 "or was convicted of a felony in any State or Federal court" is overly strict. There might be some justification if the felony involved a fraud or dishonest business tactics; but to prevent a man from obtaining a license because of some crime committed in his youth or of negligent homicide while driving an automobile, seems unusually harsh. If a man commits a crime and pays the penalty prescribed therefor, he should not thereafter be precluded from engaging in the fruit and vegetable business.

The present law and the amendment both provide that the Secretary under the circumstances mentioned "shall refuse to issue a license to the applicant." If the Secretary were given discretion in such instances, so that a "crook" might be deprived of a license, whereas, someone who had been convicted of a felony unrelated to business could be given an opportunity to obtain a license, this might be a solution to the problem.

III. We have no objection to the proposal of section 3 to add (e) to section 4 of the act.

IV. We approve the provisions of section 4 to amend section 8 (b).

V. Section 5 would amend section 13 (a) in two particulars:

(i) By eliminating the words "in the investigation of complaints under this act," appearing at the beginning of the section, and the words "as may be material for the determination of any such complaint," which appear at the end of the first sentence, and

(ii) By adding a new sentence covering inspection of commodities.

(i) We object to the proposal which would eliminate the words above quoted. We feel there is no necessity to grant employees of the Department an absolute right, willy-nilly, to come in at any time and to inspect the accounts, records, etc., of any commission merchant, dealer, or broker, unless a complaint has been made. Since complaints can be filed not only by any interested person, but also by officers or agents of any State or Territory having jurisdiction over commission merchants, dealers, or brokers in such State or Territory, and by any employee of the United States Department of Agriculture, it should be a simple enough matter to have a complaint made prior to the examination. There seems to us to be no need to give the agents of the Department of Agriculture carte blanche to go on a fishing trip expedition when permission can be so easily obtained under the existing law.

(ii) We approve the amendment which would add an additional sentence to this subsection. Perishable agricultural commodities are quickly disposed of and there may not be adequate time for a Department employee to make a complaint and then return to inspect the merchandise. We visualize a great distinction between inspecting merchandise which can be and is rapidly disposed of, and inspecting records which have more permanency.

Immediate inspection of merchandise is necessary to proper enforcement of the act, but we see no need for granting an absolute right to inspect all accounts, records, and memorandums, except in the investigation of a complaint.

We appreciate the opportunity of submitting these thoughts and request that they be included in the record and considered by the committee in the consideration of these two bills.

100 *100* *100*

H. R. 3337

A BILL

AMS-20
-1
84TH CONGRESS
1ST SESSION

H. R. 5337

check

✓ Marketing
✓ Food, distribution
✓ Car-kruptcy

IN THE HOUSE OF REPRESENTATIVES

MARCH 30, 1955

Mr. McINTIRE introduced the following bill; which was referred to the Committee on Agriculture

A BILL

To amend the provisions of the Perishable Agricultural Commodities Act, 1930, relating to practices in the marketing of perishable agricultural commodities.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*
3 That section 2 (5) of the Perishable Agricultural Comodi-
4 ties Act, 1930 (7 U. S. C., sec. 499b (5)), is amended to
5 read as follows:

6 “(5) For any commission merchant, dealer, or broker
7 to misrepresent by word, act, mark, stencil, label, statement,
8 or deed, the character, kind, grade, quality, quantity, size,
9 pack, weight, condition, degree of maturity, or State, coun-
10 try, or region of origin of any perishable agricultural com-

1 modity received, shipped, sold, or offered to be sold in in-
2 terstate or foreign commerce;”.

3 SEC. 2. Section 4 (d) of such Act (7 U. S. C., sec.
4 499d (d)) is amended to read as follows:

5 “(d) The Secretary may withhold the issuance of a
6 license to an applicant, for a period not to exceed thirty
7 days pending an investigation, for the purpose of determining
8 (a) whether the applicant is unfit to engage in the business
9 of a commission merchant, dealer, or broker because the
10 applicant, or in case the applicant is a partnership, any
11 general partner, or in case the applicant is a corporation,
12 any officer or holder of more than 10 per centum of the
13 stock, prior to the date of the filing of the application
14 engaged in any practice of the character prohibited by this
15 Act or was convicted of a felony in any State or Federal
16 court, or (b) whether the application contains any ma-
17 terially false or misleading statement or involves any mis-
18 representation, concealment, or withholding of facts re-
19 specting any violation of the Act by any officer, agent, or
20 employee of the applicant. If after investigation the Secre-
21 tary believes that the applicant should be refused a license,
22 the applicant shall be given an opportunity for hearing
23 within sixty days from the date of the application to show
24 cause why the license should not be refused. If after the
25 hearing the Secretary finds that the applicant is unfit to

1 engage in the business of a commission merchant, dealer,
2 or broker because the applicant, or in case the applicant is
3 a partnership, any general partner, or in case the applicant
4 is a corporation, any officer or holder of more than 10
5 per centum of the stock, prior to the date of the filing of the
6 application engaged in any practice of the character pro-
7 hibited by this Act or was convicted of a felony in any
8 State or Federal court, or because the application contains
9 a materially false or misleading statement made by the
10 applicant or by its representative on its behalf, or involves
11 a misrepresentation, concealment, or withholding of facts
12 respecting any violation of the Act by any officer, agent,
13 or employee, the Secretary shall refuse to issue a license to
14 the applicant.”

15 SEC. 3. Section 4 of such Act is further amended by
16 adding at the end thereof the following subsection:

17 “(e) The Secretary shall refuse to issue a license to an
18 applicant if he finds that the applicant, or in case the appli-
19 cant is a partnership, any general partner, or in case the
20 applicant is a corporation, any officer or holder of more than
21 10 per centum of the stock, has, within three years prior
22 to the date of the application, been adjudicated or discharged
23 as a bankrupt, or was a general partner of a partnership or
24 officer or holder of more than 10 per centum of the stock of
25 a corporation adjudicated or discharged as a bankrupt, unless

1 the applicant furnishes a bond of such nature and amount
2 as may be determined by the Secretary or other assurance
3 satisfactory to the Secretary that the business of the applicant
4 will be conducted in accordance with this Act.”

5 SEC. 4. Section 8 (b) of such Act (7 U. S. C., sec.
6 499h (b)) is amended to read as follows:

7 “(b) The Secretary may, after thirty days’ notice and
8 an opportunity for a hearing, suspend or revoke the license
9 of any commission merchant, dealer, or broker who, after the
10 date given in such notice, continues to employ in any respon-
11 sible position any individual whose license has been revoked
12 or is under suspension or who was responsibly connected
13 with any firm, partnership, association, or corporation whose
14 license has been revoked or is under suspension. Employ-
15 ment of an individual whose license has been revoked or is
16 under suspension for failure to pay a reparation award or who
17 was responsibly connected with any firm, partnership, asso-
18 ciation, or corporation whose license has been revoked or is
19 under suspension for failure to pay a reparation award after
20 one year following the revocation or suspension of any such
21 license may be permitted by the Secretary upon the filing
22 by the employing licensee of a bond, of such nature and
23 amount as may be determined by the Secretary, or other
24 assurance satisfactory to the Secretary that its business will
25 be conducted in accordance with the provisions of this Act;”.

1 SEC. 5. Section 13 (a) of such Act (7 U. S. C., sec.
2 499m (a)) is amended to read as follows:

3 “(a) The Secretary or his duly authorized agents shall
4 have the right to inspect all accounts, records, and memo-
5 randa of any commission merchant, dealer, or broker, and if
6 any such commission merchant, dealer, or broker refuses to
7 permit such inspection, the Secretary may publish the facts
8 and circumstances and/or, by order, suspend the license of
9 the offender until permission to make such inspection is
10 given. The Secretary or his duly authorized agents shall
11 have the right to inspect any lot of any perishable agricul-
12 tural commodity covered by this Act, and if any commission
13 merchant, dealer, or broker having ownership of or control
14 over such lot fails or refuses to authorize or allow such in-
15 spection, the Secretary may, after thirty days’ notice and
16 an opportunity for a hearing, publish the facts and circum-
17 stances and/or, by order, suspend the license of the offender
18 for a period not to exceed ninety days.”

A BILL

To amend the provisions of the Perishable
Agricultural Commodities Act, 1930, relat-
ing to practices in the marketing of perish-
able agricultural commodities.

By Mr. McINTIRE

MARCH 30, 1955

Referred to the Committee on Agriculture

H. R. 5818

IS THE HOUSE OF REPRESENTATIVES

IN SENATE

BY THE COMMITTEE ON THE JUDICIARY OF THE HOUSE OF REPRESENTATIVES

A BILL

TO AMEND THE JUDICIAL CODE, TITLE 28, UNITED STATES CODE, TO PROVIDE FOR THE APPOINTMENT OF JUDGES OF THE DISTRICT COURTS OF THE UNITED STATES

IN SENATE
BY THE COMMITTEE ON THE JUDICIARY OF THE HOUSE OF REPRESENTATIVES
IN SENATE
BY THE COMMITTEE ON THE JUDICIARY OF THE HOUSE OF REPRESENTATIVES

H. R. 5387

A BILL

to amend the Act of June 15, 1908, relating to the

administration of the National Forests, and for other

purposes

Enacted June 15, 1908.

84TH CONGRESS
1ST SESSION

H. R. 5818

IN THE HOUSE OF REPRESENTATIVES

APRIL 25, 1955

Mr. BUDGE introduced the following bill; which was referred to the Committee on Agriculture

A BILL

To amend the provisions of the Perishable Agricultural Commodities Act, 1930, relating to practices in the marketing of perishable agricultural commodities.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 That section 2 (5) of the Perishable Agricultural Commodi-
4 ties Act, 1930 (7 U. S. C., sec. 499b (5)), is amended to
5 read as follows:

6 “(5) For any commission merchant, dealer, or broker
7 to misrepresent by word, act, mark, stencil, label, statement,
8 or deed, the character, kind, grade, quality, quantity, size,
9 pack, weight, condition, degree of maturity, or State, coun-
10 try, or region of origin of any perishable agricultural com-

1 modity received, shipped, sold, or offered to be sold in
2 interstate or foreign commerce;”.

3 SEC. 2. Section 4 (d) of such Act (7 U. S. C., sec.
4 499d (d)) is amended to read as follows:

5 “(d) The Secretary may withhold the issuance of a
6 license to an applicant, for a period not to exceed thirty
7 days pending an investigation, for the purpose of determining
8 (a) whether the applicant is unfit to engage in the business
9 of a commission merchant, dealer, or broker because the
10 applicant, or in case the applicant is a partnership, any
11 general partner, or in case the applicant is a corporation,
12 any officer or holder of more than 10 per centum of the
13 stock, prior to the date of the filing of the application
14 engaged in any practice of the character prohibited by this
15 Act or was convicted of a felony in any State or Federal
16 court, or (b) whether the application contains any ma-
17 terially false or misleading statement or involves any mis-
18 representation, concealment, or withholding of facts re-
19 specting any violation of the Act by any officer, agent, or
20 employee of the applicant. If after investigation the Secre-
21 tary believes that the applicant should be refused a license,
22 the applicant shall be given an opportunity for hearing
23 within sixty days from the date of the application to show
24 cause why the license should not be refused. If after the
25 hearing the Secretary finds that the applicant is unfit to

1 engage in the business of a commission merchant, dealer,
2 or broker because the applicant, or in case the applicant is
3 a partnership, any general partner, or in case the applicant
4 is a corporation, any officer or holder of more than 10
5 per centum of the stock, prior to the date of the filing of the
6 application engaged in any practice of the character pro-
7 hibited by this Act or was convicted of a felony in any
8 State or Federal court, or because the application contains
9 a materially false or misleading statement made by the
10 applicant or by its representative on its behalf, or involves
11 a misrepresentation, concealment, or withholding of facts
12 respecting any violation of the Act by any officer, agent,
13 or employee, the Secretary shall refuse to issue a license to
14 the applicant.”

15 SEC. 3. Section 4 of such Act is further amended by
16 adding at the end thereof the following subsection:

17 “(e) The Secretary shall refuse to issue a license to an
18 applicant if he finds that the applicant, or in case the appli-
19 cant is a partnership, any general partner, or in case the
20 applicant is a corporation, any officer or holder of more than
21 10 per centum of the stock, has, within three years prior
22 to the date of the application, been adjudicated or discharged
23 as a bankrupt, or was a general partner of a partnership or
24 officer or holder of more than 10 per centum of the stock of
25 a corporation adjudicated or discharged as a bankrupt, unless

1 the applicant furnishes a bond of such nature and amount
2 as may be determined by the Secretary or other assurance
3 satisfactory to the Secretary that the business of the applicant
4 will be conducted in accordance with this Act.”

5 SEC. 4. Section 8 (b) of such Act (7 U. S. C., sec.
6 499h (b)) is amended to read as follows:

7 “(b) The Secretary may, after thirty days’ notice and
8 an opportunity for a hearing, suspend or revoke the license
9 of any commission merchant, dealer, or broker who, after the
10 date given in such notice, continues to employ in any respon-
11 sible position any individual whose license has been revoked
12 or is under suspension or who was responsibly connected
13 with any firm, partnership, association, or corporation whose
14 license has been revoked or is under suspension. Employ-
15 ment of an individual whose license has been revoked or is
16 under suspension for failure to pay a reparation award or who
17 was responsibly connected with any firm, partnership, asso-
18 ciation, or corporation whose license has been revoked or is
19 under suspension for failure to pay a reparation award after
20 one year following the revocation or suspension of any such
21 license may be permitted by the Secretary upon the filing
22 by the employing licensee of a bond, of such nature and
23 amount as may be determined by the Secretary, or other
24 assurance satisfactory to the Secretary that its business will
25 be conducted in accordance with the provisions of this Act;”.

1 SEC. 5. Section 13 (a) of such Act (7 U. S. C., sec.
2 499m (a)) is amended to read as follows:

3 “(a) The Secretary or his duly authorized agents shall
4 have the right to inspect all accounts, records, and memo-
5 randa of any commission merchant, dealer, or broker, and if
6 any such commission merchant, dealer, or broker refuses to
7 permit such inspection, the Secretary may publish the facts
8 and circumstances and/or, by order, suspend the license of
9 the offender until permission to make such inspection is
10 given. The Secretary or his duly authorized agents shall
11 have the right to inspect any lot of any perishable agricul-
12 tural commodity covered by this Act, and if any commission
13 merchant, dealer, or broker having ownership of or control
14 over such lot fails or refuses to authorize or allow such in-
15 spection, the Secretary may, after thirty days’ notice and
16 an opportunity for a hearing, publish the facts and circum-
17 stances and/or, by order, suspend the license of the offender
18 for a period not to exceed ninety days.”

A BILL

To amend the provisions of the Perishable
Agricultural Commodities Act, 1930, relat-
ing to practices in the marketing of perish-
able agricultural commodities.

By Mr. BUDGE

APRIL 25, 1955

Referred to the Committee on Agriculture

S. 1861

IN THE SENATE OF THE UNITED STATES

OF 1861

OF THE SENATE OF THE UNITED STATES

A BILL

To amend the provisions of the Wrecked Vessels Act, and to provide for the payment of the expenses of the crew of the vessel wrecked on the coast of the United States.

1. That the Secretary of the Treasury be and he is hereby authorized to
2. Cause the Public Money to be paid to the crew of the vessel wrecked on the coast of the United States.
3. That within 24 hours after the vessel is wrecked on the coast of the United States, the Secretary of the Treasury be and he is hereby authorized to
4. Cause the Public Money to be paid to the crew of the vessel wrecked on the coast of the United States.

OFFICE OF THE CLERK OF THE HOUSE OF REPRESENTATIVES
H. R. 5618

A BILL

TO AMEND THE ACT TO PROVIDE FOR THE REGISTRATION OF VOTERS IN THE DISTRICT OF COLUMBIA, AND FOR OTHER PURPOSES.

IN SENATE,

January 10, 1900.

REPORT OF THE COMMITTEE ON THE DISTRICT OF COLUMBIA.

84TH CONGRESS
1ST SESSION

S. 1861

IN THE SENATE OF THE UNITED STATES

MAY 2, 1955

Mr. YOUNG introduced the following bill; which was read twice and referred to the Committee on Agriculture and Forestry

A BILL

To amend the provisions of the Perishable Agricultural Commodities Act, 1930, relating to practices in the marketing of perishable agricultural commodities.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*
3 That section 2 (5) of the Perishable Agricultural Commodi-
4 ties Act, 1930 (7 U. S. C. § 499b (5)), is amended to
5 read as follows:

6 “(5) For any commission merchant, dealer, or broker
7 to misrepresent by word, act, mark, stencil, label, statement,
8 or deed, the character, kind, grade, quality, quantity, size,
9 pack, weight, condition, degree of maturity, or State, coun-
10 try, or region of origin of any perishable agricultural com-

1 modity received, shipped, sold, or offered to be sold in in-
2 terstate or foreign commerce;”.

3 SEC. 2. Section 4 (d) of such Act (7 U. S. C., § 499d
4 (d)) is amended to read as follows:

5 “(d) The Secretary may withhold the issuance of a
6 license to an applicant, for a period not to exceed thirty
7 days pending an investigation, for the purpose of determining
8 (a) whether the applicant is unfit to engage in the business
9 of a commission merchant, dealer, or broker because the
10 applicant, or in case the applicant is a partnership, any
11 general partner, or in case the applicant is a corporation,
12 any officer or holder of more than 10 per centum of the
13 stock, prior to the date of the filing of the application
14 engaged in any practice of the character prohibited by this
15 Act or was convicted of a felony in any State or Federal
16 court, or (b) whether the application contains any ma-
17 terially false or misleading statement or involves any mis-
18 representation, concealment, or withholding of facts re-
19 specting any violation of the Act by any officer, agent, or
20 employee of the applicant. If after investigation the Secre-
21 tary believes that the applicant should be refused a license,
22 the applicant shall be given an opportunity for hearing
23 within sixty days from the date of the application to show
24 cause why the license should not be refused. If after the
25 hearing the Secretary finds that the applicant is unfit to

1 engage in the business of a commission merchant, dealer,
2 or broker because the applicant, or in case the applicant is
3 a partnership, any general partner, or in case the applicant
4 is a corporation, any officer or holder of more than 10
5 per centum of the stock, prior to the date of the filing of the
6 application engaged in any practice of the character pro-
7 hibited by this Act or was convicted of a felony in any
8 State or Federal court, or because the application contains
9 a materially false or misleading statement made by the
10 applicant or by its representative on its behalf, or involves
11 a misrepresentation, concealment, or withholding of facts
12 respecting any violation of the Act by any officer, agent,
13 or employee, the Secretary shall refuse to issue a license to
14 the applicant.”

15 SEC. 3. Section 4 of such Act is further amended by
16 adding at the end thereof the following new subsection :

17 “(f) The Secretary shall refuse to issue a license to an
18 applicant if he finds that the applicant, or in case the appli-
19 cant is a partnership, any general partner, or in case the
20 applicant is a corporation, any officer or holder of more than
21 10 per centum of the stock, has, within three years prior
22 to the date of the application, been adjudicated or discharged
23 as a bankrupt, or was a general partner of a partnership or
24 officer or holder of more than 10 per centum of the stock of
25 a corporation adjudicated or discharged as a bankrupt, unless

1 the applicant furnishes a bond of such nature and amount
2 as may be determined by the Secretary or other assurance
3 satisfactory to the Secretary that the business of the applicant
4 will be conducted in accordance with this Act.”

5 SEC. 4. Section 8 (b) of such Act (7 U. S. C. § 499h
6 (b)) is amended to read as follows:

7 “(b) The Secretary may, after thirty days’ notice and
8 an opportunity for a hearing, suspend or revoke the license
9 of any commission merchant, dealer, or broker who, after the
10 date given in such notice, continues to employ in any respon-
11 sible position any individual whose license has been revoked
12 or is under suspension or who was responsibly connected
13 with any firm, partnership, association, or corporation whose
14 license has been revoked or is under suspension. Employ-
15 ment of an individual whose license has been revoked or is
16 under suspension for failure to pay a reparation award or who
17 was responsibly connected with any firm, partnership, asso-
18 ciation, or corporation whose license has been revoked or is
19 under suspension for failure to pay a reparation award after
20 one year following the revocation or suspension of any such
21 license may be permitted by the Secretary upon the filing
22 by the employing licensee of a bond, of such nature and
23 amount as may be determined by the Secretary, or other
24 assurance satisfactory to the Secretary that its business will
25 be conducted in accordance with the provisions of this Act;”.

1 SEC. 5. Section 13 (a) of such Act (7 U. S. C.
2 § 499m (a)) is amended to read as follows:

3 “(a) The Secretary or his duly authorized agents shall
4 have the right to inspect all accounts, records, and memo-
5 randa of any commission merchant, dealer, or broker, and if
6 any such commission merchant, dealer, or broker refuses to
7 permit such inspection, the Secretary may publish the facts
8 and circumstances and/or, by order, suspend the license of
9 the offender until permission to make such inspection is
10 given. The Secretary or his duly authorized agents shall
11 have the right to inspect any lot of any perishable agricul-
12 tural commodity covered by this Act, and if any commission
13 merchant, dealer, or broker having ownership of or control
14 over such lot fails or refuses to authorize or allow such in-
15 spection, the Secretary may, after thirty days’ notice and
16 an opportunity for a hearing, publish the facts and circum-
17 stances and/or, by order, suspend the license of the offender
18 for a period not to exceed ninety days.”

A BILL

To amend the provisions of the Perishable
Agricultural Commodities Act, 1930, relat-
ing to practices in the marketing of perish-
able agricultural commodities.

By Mr. YOUNG

MAY 2, 1935

Read twice and referred to the Committee on
Agriculture and Forestry

The first part of the paper discusses the importance of the study of the history of the United States. It is argued that the study of the history of the United States is essential for a full understanding of the country and its people. The author then discusses the various methods used in the study of history, including the use of primary and secondary sources, and the importance of critical thinking and analysis.

The second part of the paper discusses the role of the government in the development of the United States. It is argued that the government has played a crucial role in the development of the country, from the establishment of the federal government to the present day. The author then discusses the various policies and programs that have been implemented by the government, and the impact of these policies and programs on the country and its people.

The third part of the paper discusses the role of the courts in the development of the United States. It is argued that the courts have played a crucial role in the development of the country, from the establishment of the federal judiciary to the present day. The author then discusses the various cases and decisions that have been made by the courts, and the impact of these cases and decisions on the country and its people.

The fourth part of the paper discusses the role of the people in the development of the United States. It is argued that the people have played a crucial role in the development of the country, from the establishment of the federal government to the present day. The author then discusses the various ways in which the people have participated in the development of the country, and the impact of their participation on the country and its people.

The fifth part of the paper discusses the future of the United States. It is argued that the future of the country is uncertain, and that there are many challenges that the country will face in the years ahead. The author then discusses the various ways in which the country can meet these challenges, and the importance of continued study and research.

S. 1861

A BILL

The Forestry Subcommittee of the Agriculture Committee voted to report favorably to the Agriculture Committee the following bills: H. R. 374, adjusting ownership of certain lands within Stanislaus National Forest; H. R. 426, to provide for the establishment of townsites, from national forests and lands administered under the Bankhead-Jones Farm Tenant Act; and S. 72, to provide that certain lands acquired by the United States shall be administered by the Secretary of Agriculture as national forest lands (p. D683).

10. FLOOD CONTROL; SOIL CONSERVATION. The Public Works Committee reported with amendment H. R. 6066, authorizing modification of the San Joaquin River flood control project (H. Rept. 1094) (p. 8823).

The Conservation and Credit Subcommittee of the Agriculture Committee agreed to report to the full committee a clean bill, superseding the amended version of H. R. 6062, permitting payments under the Soil Conservation and Domestic Allotment Act to farmers for certain water conservation practices (p. D683).

11. FEED GRAIN. The Conservation and Credit Subcommittee of the Agriculture Committee referred to the full committee for further open hearings H. J. Res. 313, authorizing the Commodity Credit Corporation until March 1, 1956, to sell at the point of storage any feed grain owned by the Corporation at 10% below the current support price for the commodity (p. D683).

12. MARKETING. The Domestic Marketing Subcommittee of the Agriculture Committee voted, July 8, to report to the full committee H. R. 5337, relating to changing certain practices in the marketing of perishable agricultural commodities (p. D683).

13. FOREST RESEARCH. The Forestry Subcommittee of the Agriculture Committee voted July 8, to report to the full committee H. R. 1855, to amend the act to facilitate and simplify the work of the Forest Service, relating to forest research (p. D683).

14. INTERGOVERNMENTAL RELATIONS. In its recent report, the Commission on Intergovernmental Relations made the following recommendations regarding agriculture:

"The Commission recommends that existing agricultural grant-in-aid programs be continued with the modifications suggested below... It is recommended that the various statutes which authorize grants-in-aid to State experiment stations for research be consolidated into a single law. The Commission also favors greater use of State research facilities...and less emphasis upon strictly Federal research facilities... It is recommended that Congress authorize the use of Morrill moneys for agricultural research, as well as resident instruction, when the recipient State so desires... In regard to grants to the States for agricultural extension and research, it is recommended that the legislation put more emphasis, in the apportionment of funds, upon factors of need, including per capita farm income, farm population, and the extent of each State's dependence upon agriculture, and that matching formulas for these two grants be placed upon a sliding scale based upon State fiscal capacity... It is recommended that the Department of Agriculture maintain for the present its program of grants to certain States in behalf of agricultural marketing services on a quasi-contractual basis. But if later developments should justify a considerable expansion, the Department of Agriculture and the Congress should act to place the program on a formal

grant-in-aid basis. It is recommended that agricultural grant-in-aid legislation be amended to ^{requiring} that State legislation and budgetary practice and procedure be followed in the channeling of agricultural grants to State agencies and land-grant institutions."

"It is recommended to the Congress that the present program of soil conservation technical assistance to farmers be continued as presently organized and operated; with the provision, however, that in any State which, in order to improve, expand, and participate more fully in the program, submits a plan of operation satisfactory to the Secretary of Agriculture, and which agrees to appropriate funds sufficient to provide for such expansion and improvement of the program in such State, the program may be placed upon a grant-in-aid basis, with State administration of the program under the supervision of the Soil Conservation Service."

"It is recommended that the Secretary of Agriculture implement as rapidly as possible those provisions of the basic legislation governing agricultural conservation payments that call for State administration of the payments. Under these provisions, Federal payments would be rendered to the States, based upon State plans approved by the Secretary of Agriculture. More basically, however, the Commission recommends that as soon as practicable, legislative action be taken to place agricultural conservation payments on a grant-in-aid basis, with the States assuming a part of the cost."

"It is recommended that legislative and administrative action be undertaken at both the National and State levels to clarify intergovernmental responsibility for agricultural inspection and grading activities; this action should include the use of cross certification between, or joint commissioning of, National and State enforcement authorities. It is further recommended that both levels of government undertake a detailed study of responsibilities and cost sharing in programs for the eradication and control of pests and diseases."

A few copies of this report are available from the Legislative Reporting Staff, for lending and reference purposes. The regular distribution to this Department is being made through the Government Printing Office pursuant to an arrangement with the Commission on Intergovernmental Relations, and that regular supply will not be available from the Legislative Reporting Staff.

15..LEGISLATIVE PROGRAM. The "Daily Digest" states that on Tues., July 12, "the House will act on the conference report on H. R. 6766, the public works appropriation bill which includes funds for the AEC, TVA, certain agencies of the Interior Department, and civil functions of the Army; and will also consider H. R. 5168, the Farm Credit Act of 1955." (p. D683.) Pursuant to a unanimous-consent request the consideration of a supplemental appropriation bill was made in order on Thurs., July 14 (p. 8776).

SENATE

16. SURPLUS COMMODITIES. Agreed to the conference report on H. R. 6829, to authorize certain construction at military, naval, and Air Force installations (pp. 8714-5). The bill includes a provision which is described in the Senate report as follows:

"Amends section 407 of Public Law 765, 83d Congress, by increasing from \$25 million to \$100 million the authority to provide housing through use of the proceeds from the sale of surplus agricultural commodities by the Commodity Credit Corporation. The revised section amends the provision with respect to

July 13, 1955

amendment H. R. 426, to provide for the establishment of townsites (H. Rept. 1171) (p. 9008).

The Agriculture Committee ordered reported H. R. 6815, to provide for the orderly disposition of property acquired under Title III of the Bankhead-Jones Farm Tenant Act, and H. J. Res. 112, to release reversionary right to improvements on a 3-acre tract in Orangeburg County, S. C. (p. D703).

14. PERSONNEL. Agreed to H. Res. 304, to authorize the Post Office and Civil Service Committee to conduct investigations and studies of certain matters within their jurisdiction (pp. 8973-4).
15. PAPER MANAGEMENT. The Joint Committee on Disposition of Executive Papers submitted its report (H. Repts. 1160, 1161) (p. 9007).
16. FOREST RESEARCH. The Agriculture Committee reported with amendment H. R. 1855, to facilitate and simplify the work of the Forest Service (H. Rept. 1173) (p. 9008).
17. MARKETING. The Agriculture Committee ordered reported ~~H. R. 4054, to provide a system of mortgage insurance to municipal and other political subdivisions of the States, to be administered by the USDA, for the expansion of public marketing of perishable commodities, and H. R. 5337, to broaden the provisions of law relating to practices in the marketing of perishable agricultural commodities under the Perishable Agricultural Commodities Act (p. D703).~~
18. WATER CONSERVATION. The Agriculture Committee ordered reported H. R. 7236, to amend section 8 (b) of the Soil Conservation and Domestic Allotment Act with respect to water conservation practices (p. D703).
19. CONTRACTS. The conferees on H. R. 4904, extending the Renegotiation Act of 1951 for two years, agreed to file a conference report on the differences between the Senate and the House-passed versions of the bill (p. D705).

BILLS INTRODUCED

20. LEGAL SERVICES. S. 2503, by Sen. Wiley, and S. 2540, by Sen. McCarthy, to improve legal procedures in the executive branch of the Government by establishing certain offices within the Department of Justice and defining the functions thereof, creating a legal career service; to Judiciary Committee (pp. 8916, 8917). Remarks of Sen. Wiley (p. 8917).
S. 2504, by Sen. Wiley, and S. 2541, by Sen. McCarthy, to improve legal procedures in the executive branch of the Government through the enactment of an administrative code; to Judiciary Committee (pp. 8916, 8917). Remarks of Sen. Wiley (p. 8917).
21. MINERALS. S. 2505, by Sen. Murray (for himself and others), to amend the Domestic Minerals Program Extension Act of 1953 in order to encourage the discovery, development, and production of certain domestic minerals; to Interior and Insular Affairs Committee (p. 8916).
22. FARM PROGRAM. S. 2510, by Sen. Fulbright, "to amend the Agricultural Adjustment Act of 1954;" to Agriculture and Forestry Committee (p. 8916).
S. 2511, by Sen. Fulbright, and H. R. 7367, by Rep. Gathings, "to amend the Agricultural Adjustment Act of 1938, as amended;" to Agriculture and Forestry and Agriculture Committees (pp. 8916, 9009).

24. NATIONAL FORESTS. S. 2517, by Sen. Jackson, to amend subsection 3 (a) of the act approved August 8, 1947, to authorize the sale of timber within the Tongass National Forest, Alaska; to Interior and Insular Affairs Committee (p. 8917).
25. FARM LOANS. S. 2528, by Sen. McCarthy, relating to the fixing of interest rates or other charges with respect to loans by the Farmers' Home Administration; to Banking and Currency Committee (p. 8917).
- S. 2529, by Sen. McCarthy, to provide for the liquidation of the production credit corporations; to Banking and Currency Committee (p. 8917).
- S. 2532, by Sen. McCarthy, relating to the fixing of interest rates, fees, or charges with respect to loans made, insured, or guaranteed by agencies of the United States; to Banking and Currency Committee (p. 8917).
- S. 2533, by Sen. McCarthy, to require that the rate of interest payable by agencies of the Government on loans and advances from the Treasury shall be not less than the going rate of interest paid by the Treasury on its obligations of comparable maturities; to Banking and Currency Committee (p. 8917).
- H. R. 7310, by Rep. Church, to repeal the authority of the Federal Farm Mortgage Corporation to issue bonds; to Agriculture Committee (p. 9008). Remarks of author (p. 8996).
- H. R. 7312, by Rep. Church, relating to the fixing of interest rates or other charges with respect to loans by the Farmers' Home Administration; to Agriculture Committee (p. 9008). Remarks of author (p. 8996).
- H. R. 7357, by Rep. Church, relating to the fixing of interest rates, fees, or charges with respect to loans made, insured, or guaranteed by agencies of the United States; to Ways and Means Committee (p. 9009). Remarks of author (p. 8996).
26. SMALL BUSINESS. S. 2534, by Sen. McCarthy, to make the Small Business Administration subject to the Government Corporation Control Act; to Banking and Currency Committee (p. 8917).
- by Rep. Byrd,
27. RUBBER. H. R. 7301, to amend the Rubber Producing Facilities Disposal Act of 1953, as heretofore amended, so as to permit the disposal thereunder of Plancor No. 980 at Institute, W. Va.; to Armed Services Committee (p. 9008).
28. RICE. H. R. 7302, by Rep. Thompson, Tex., to amend the rice marketing quota provisions of the Agricultural Adjustment Act of 1938, as amended; to Agriculture Committee (p. 9008).
29. CCC. H. R. 7303, by Rep. Abernethy, to permit sale of Commodity Credit Corporation stocks of basic and storable nonbasic agricultural commodities without restriction where similar commodities are exported in raw or processed form; to Agriculture Committee (p. 9008).
30. PROPERTY. H. R. 7306, by Rep. Broyhill, to provide that the Administrator of General Services shall conduct an investigation and survey to determine the advisability of providing air-conditioning facilities in Government buildings; to Government Operations Committee (p. 9008).
- H. R. 7336, to add a new title relating to real property management to the Federal Property and Administrative Services Act of 1949, as amended; to Government Operations Committee (p. 9009). Remarks of author (p. 8996).

Digest of CONGRESSIONAL PROCEEDINGS

OF INTEREST TO THE DEPARTMENT OF AGRICULTURE

Issued July 19, 1955

For actions of July 18, 1955

84th-1st, No. 120

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(For Department Staff Only)

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For Highlights see page 9.

HOUSE

1. FOREIGN AFFAIRS. Both Houses received the President's annual report on U. S. participation in the United Nations (H. Doc. 219) (pp. 9153, 9231).
2. RESERVE FORCES. House conferees were appointed on H. R. 7000, the reserve forces bill (pp. 9232, 9234). Senate conferees have not yet been appointed.
3. LAND TRANSFER. Passed as reported H. R. 4280, conveying certain submarginal lands to Clemson College, S. C. (pp. 9235-6).
Passed as reported H. J. Res. 276, authorizing the Texas Hill Country Development Foundation to convey certain land to Kerr County, Tex., and such county to convey a portion thereof to the State, for extension work (p. 9263).
Passed as reported H. R. 4096, providing for the disposal of public lands within highway, telephone, and pipeline withdrawals in Alaska (p. 9264).
Passed without amendment S. 1878, extending for five years the authority to transfer certain ARS lands to Miles City, Mont. (p. 9265). Ready for President.
Both Houses received a draft of proposed legislation from the Secretary of Agriculture, "to authorize an exchange of land at the Agricultural Research Center;" to Agriculture Committees (pp. 9154, 9338).

The Agriculture Committee reported without amendment H. J. Res. 112, to release reversionary rights to improvements on a three acre tract of former FHA lands in Orangeburg County, S. C. (H. Rept. 1193) (p. 9338).

4. LANDS. Passed with amendment S. 1177, after substituting in the bill the language of H. R. 4308, which was subsequently laid on the table (p. 9265). The bill as passed provides for the relief of desert land entrymen whose entries are dependent upon percolating water for reclamation.
5. FOOD AND DRUGS; ANIMAL DISEASES. Passed without amendment H. R. 6991, to amend certain sections of Title 21 of the Food and Drug Act (pp. 9237-61). A statement from the USDA was inserted in the Record by Rep. Byrnes, Wis., to the effect that certain amendments were contemplated by USDA and would be brought to the attention of the Senate Judiciary Committee.
6. SURPLUS PROPERTY. Passed with amendment S. 611, after substituting in the bill the language of H. R. 3757, which was subsequently laid on the table. The bill as passed authorizes GSA to donate certain property to the American National Red Cross (pp. 9261-2).
Rep. Brooks, Tex., discussed H. R. 7227, to donate surplus property to civil defense organizations (p. 9239).
7. REAL PROPERTY. Passed without amendment S. 2097, to authorize the transfer of certain property for research purposes from the Virgin Islands Corporation to the USDA (p. 9264). This bill will now be sent to the President.
8. SOIL CONSERVATION. The Agriculture Committee reported without amendment S. 1167, to specifically provide for conservation payments to farmers who, in order to benefit their own lands, carry out conservation practices on Federal lands (H. Rept. 1192) (p. 9338).
9. WATER CONSERVATION. The Agriculture Committee reported without amendment H. R. 7236, to amend the Soil Conservation and Domestic Allotment Act with respect to water-conservation practices (H. Rept. 1199) (p. 9339).
10. MARKETING. The Agriculture Committee reported with amendment H. R. 5337, to amend the provisions of the Perishable Agricultural Commodities Act, 1930, relating to practices in the marketing of perishable agricultural commodities (H. Rept. 1196) (p. 9338).
11. CCC. The Agriculture Committee reported without amendment H. R. 7252, to permit sale of CCC stock of basic and storable nonbasic agricultural commodities without restriction, where similar commodities are exported in raw or processed form (H. Rept. 1203) (p. 9339).
12. RESEARCH; DISEASE CONTROL. The Agriculture Committee ordered the following bills reported on Fri., July 15: S. 1166, to permit imports from the British Virgin Islands into the U. S. Virgin Islands for slaughter only, cattle and poultry which have been freed from tick infection; and S. 1759, amended, relating to appropriation of Federal funds for support of agricultural experiment stations in the States, Alaska, Hawaii, and Puerto Rico (p. D723).
13. INTERGOVERNMENTAL RELATIONS. The Legislative Reporting Staff has a few copies, for lending and reference purposes, of study committee reports, etc., of the Commission on Intergovernmental Relations, as follows: "Federal Aid to Airports," "Natural Resources and Conservation," "Twenty-five Federal Grant-in-Aid Programs," "Federal Aid to Public Health," "Federal Aid to Highways," "Natural Disaster Relief," "Payments in Lieu of Taxes and Shared Revenues,"

AMENDMENTS TO PERISHABLE AGRICULTURAL COMMODITIES ACT

JULY 18, 1955.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. COOLEY, from the Committee on Agriculture, submitted the following

R E P O R T

[To accompany H. R. 5337]

The Committee on Agriculture, to whom was referred the bill (H. R. 5337), to amend the provisions of the Perishable Agricultural Commodities Act, 1930, relating to practices in the marketing of perishable agricultural commodities, having considered the same, report favorably thereon with amendments and recommend that the bill as amended do pass.

The amendments are as follows:

Page 2, following line 2, add the following new section:

SEC. 2. Section 3 (b) of such Act (7 U. S. C., sec. 499c (b)) is amended by striking out in the third sentence the words "of \$15" and inserting "not to exceed \$25".

Page 2, line 3, change "SEC. 2" to "SEC. 3".

Page 3, line 13, strike out "shall" and insert "may".

Page 3, line 15, change "SEC. 3" to "SEC. 4".

Page 3, line 17, strike out "shall" and insert "may".

Page 4, line 5, change "SEC. 4" to "SEC. 5".

Page 5, line 1, change "SEC. 5" to "SEC. 6".

Page 5, beginning on line 3, strike out all of the first sentence through and including "given." on line 10, and insert:

The Secretary or his duly authorized agents have the right to inspect such accounts, records and memoranda of any commission merchant, dealer, or person, as may be required (1) in the investigation of complaints under this Act; or (2) to the determination of ownership, the control factors in the State, country, or region of origin in connection with the commodity inspection; or (3) to ascertain whether the provisions of this Act are being complied with and if such commission merchant shall refuse permission for inspection, the Secretary may publish the facts and circumstances or order suspended the licenses which the permission gives.

STATEMENT

The bill would—without broadening the scope or original intent of the Perishable Agricultural Commodities Act of 1930, as amended—correct certain deficiencies which have become apparent in the administration of the act, thereby lending greater strength and more effectiveness to the basic legislation. The bill would accomplish this end by (1) strengthening the provisions relating to misbranding or misrepresentation of grade and origin of fresh fruits and vegetables; (2) increasing the maximum annual license fee from the present \$15 per year to \$25; (3) permitting the Secretary of Agriculture to deny issuance of a license to any person convicted of a felony in any State or Federal court; (4) authorizing the Secretary to deny a license to any applicant who has been involved in bankruptcy proceedings within 3 years unless the applicant furnishes a bond or other assurance satisfactory to the Secretary; (5) empowering the Secretary to suspend the license of a person who employs in any responsible position an individual whose license is under suspension; and (6) providing authority for the inspection of any perishable commodity covered by the act.

The Perishable Agricultural Commodities Act is admittedly and intentionally a "tough" law. It was enacted in 1930 for the purpose of providing a measure of control and regulation over a branch of industry which is engaged almost exclusively in interstate commerce, which is highly competitive, and in which the opportunities for sharp practices, irresponsible business conduct, and unfair methods are numerous. The law was designed primarily for the protection of the producers of perishable agricultural products—most of whom must entrust their products to a buyer or commission merchant who may be thousands of miles away, and depend for their payment upon his business acumen and fair dealing—and for the protection of consumers who frequently have no more than the oral representation of the dealer that the product they buy is of the grade and quality they are paying for.

The law has fostered an admirable degree of dependability and fairness in this industry chiefly through the method of requiring the registration of all those who carry on an interstate business in perishable agricultural commodities and denying this registration to those whose business tactics disqualify them. It also provides the procedures and the authority with which complaints within the industry can be settled without resort to courts of law. In spite of the strictness of some of the provisions of the law, the act and its administration by the Department of Agriculture have won the almost unanimous approval of this important food distributing industry and now have its virtually undivided support.

Hearings were held on H. R. 5337, by Mr. McIntire, and an identical bill, H. R. 5818, by Mr. Budge. At the hearings a number of representative organizations appeared in support of the bills. There were no witnesses in opposition. Among the organizations which testified in support of the bill (H. R. 5337) as reported, were the United Fresh Fruit and Vegetable Association, the Idaho Advertising Commission, the Vegetable Growers Association of America, the National Farmers Union, the International Potato Council, the International Apple Association, and the Philadelphia Terminal Marketing Association. A statement in support of the legislation was filed by the American Farm Bureau Federation.

ANALYSIS

Section 2 (5) of the Perishable Agricultural Act—as it would be amended by H. R. 5337—would, by deleting the words “for a fraudulent purpose,” dismiss the unwieldy necessity of proving the prevalence of fraud in misbranding or mislabeling in order to declare the existence of an unlawful act; evidence of bona fide misrepresentations relative to grade, quality, etc., would represent an adequate base for the declaration of illegal conduct.

Also, to the existing safeguards against perishable commodity misrepresentations relative to State or county origins, there would be added comparable protection pertaining to region of origin.

Section 4 (b) would permit the Secretary to collect a fee in excess of \$15, but not in excess of \$25. It is to be noted that the costs of administering this act are almost totally defrayed by the collection of such fees from licensees, and the broadened fee base would work toward a more efficient administration of the act.

Section 4 (d) would permit the Secretary of Agriculture to exercise discretionary powers with regard to the issuance of a license in those instances where an applicant was convicted of a felony in a State or Federal court. Prevailing law authorizes the Secretary to deny a license if he finds that the applicant is unfit to enter the business because of engaging in a practice of the character prohibited only by the act, and this amendment would perform as an added assurance that only persons of a reliable nature are encouraged to participate in trading activities under this act.

Section 4 would—through the addition of a new subsection (c)—permit the Secretary to deny a license to any applicant who has been involved in bankruptcy proceedings within 3 years unless the applicant furnished a bond or other assurance satisfactory to the Secretary. The act presently excludes bankruptcy as a basis for license denials.

Section 8 (b) would authorize the Secretary to suspend the license of a person who employs in any responsible position an individual whose license is under suspension. In effect, this would place restrictions on suspended licensees comparable to those now in effect for revocations, and it would serve to eliminate the effectiveness of dummy organizations and other such devices that might be set up to circumvent the suspension penalty.

Section 13 (a) would enable the Secretary or his duly authorized agents to inspect any lot of any perishable agricultural commodity covered by the act. Such authority would facilitate an effective inspection where there exists the suggestion of misbranding or misrepresentation.

DEPARTMENTAL VIEWS

Following is the letter from the Department of Agriculture recommending enactment of the bill with certain amendments. The amendments proposed by the Department were adopted.

MAY 25, 1955.

Hon. HAROLD D. COOLEY,
Chairman, Committee on Agriculture,
House of Representatives.

DEAR CONGRESSMAN COOLEY: This is in reply to your letter of April 20, 1955, requesting a report on H. R. 5337, a bill to amend the provisions of the

Perishable Agricultural Commodities Act of 1930 relating to practices in the marketing of perishable agricultural commodities.

The Department recommends passage of the bill with amendments.

The major purpose of the bill is to strengthen and to make more effective the enforcement of the Perishable Agricultural Commodities Act. The bill does not broaden the basic scope of the statute but corrects deficiencies which have become apparent in carrying out its provisions.

The bill (1) eliminates the necessity of proving "fraudulent purpose" of any licensee in connection with the misbranding of any perishable agricultural commodity, (2) provides that misrepresentation of the "region of origin" is a violation of the act, (3) authorizes the officials of the Department enforcing this act to inspect any perishable agricultural commodity in the possession of, or under the control of, any licensee under the act, (4) authorizes the Secretary to suspend the license of any licensee for a period of up to 90 days, if inspection of the produce is refused, (5) authorizes the Secretary to deny a license to any applicant convicted of a felony in any State or Federal court, (6) authorizes the Secretary to deny a license to any applicant who has within 3 years prior to the date of the application been involved in bankruptcy proceedings unless the applicant furnishes a bond or other assurance satisfactory to the Secretary, and (7) permits the Secretary to suspend or revoke the license of any licensee who, after a proper notice, continues to employ in a responsible position any person whose license is under suspension. Such employment could be permitted by the Secretary after 1 year, if the suspension was for failure to pay a reparation award, upon the filing of a bond or assurance satisfactory to the Secretary.

Growers, shippers, and buyers are concerned about the existing extent of misbranding and misrepresentation of grade and origin of fresh fruits and vegetables. Although the proposed amendments to the Perishable Agricultural Commodities Act would not correct all malpractices in this field, they would provide significant help. Effective control of misbranding and misrepresentation of fruits and vegetables is difficult under the present statute because no authority is granted to inspect produce in the possession or control of a licensee to determine if it is misbranded unless the licensee requests or grants permission for such inspection. Also, substantial evidence must be produced that the misbranding was done deliberately with the definite intention of defrauding the buyer in order to prove that a fraudulent purpose is involved. The proposed amendments undoubtedly would expedite enforcement of the misbranding provisions of the act and provide for more effective action against licensees who violate these provisions.

The purpose of the other amendments relating to felonies and bankrupts is to eliminate from the produce business many potential troublemakers of the type who are constantly involved in disciplinary actions or reparation awards. Prohibition of the employment in a responsible position of a person whose license has been suspended is primarily for the purpose of preventing such a person from avoiding the suspension period by operating through a dummy organization. This change results in the same provisions concerning employment in a responsible position being applied to persons whose licenses are under suspension as the act now provides for persons whose licenses have been revoked.

Some questions have been raised by industry representatives concerning the scope of the authority given to the Secretary in the revision of section 13 (a) relating to the inspection of accounts and records. These representatives have recommended that this authority be delineated and clarified by insertion of the following words after "broker" on page 5, line 5, of the bill: "as may be material (1) in the investigation of complaints under this Act, or (2) to the determination of ownership, control, packer or State, county, or region of origin in connection with commodity inspections, or (3) to ascertain whether section 9 of this Act is being complied with." We believe that the Department can carry out its responsibilities effectively within the limitations established by this proposed revision and, therefore, we are agreeable to this change in the bill.

Administration of this act, except for the cost of legal services, is financed exclusively from the license fees which are now fixed by the statute at \$15 per year. It will be necessary to increase the relatively small staff now engaged in administering the Perishable Agricultural Commodities Act and the number of attorneys assigned to this activity in order for the Department to conduct an expeditious and effective enforcement of the misbranding provisions. Curtailment of misbranding is not feasible by relying largely on complaints prior to investigation and requires that steps be taken to check the operations of shipping-point packers and terminal-market repackers. Where violations are uncovered proceedings under the formal hearings requirements of the Administrative Procedure Act must be held.

Therefore, unless provision is made for increasing the revenue under the act, it will not be possible for the Department to render the service which the industry has in mind. It is recommended that the act be amended to provide that an annual fee of not to exceed \$25 may be fixed by the Secretary. It is believed that this provision would be preferable to establishing a specific fee and should give the Department sufficient latitude to be able to realize enough revenue to carry out the foreseeable costs of administering this act, with the exception of additional expenses for legal services for which additional appropriations of about \$25,000 annually would be needed. In order to make this revision, it would be necessary to insert after the word "fee" in the third sentence of section 3 (b) the words "to be fixed by the Secretary but not to exceed \$25," in lieu of the words "of \$15", and after the word "paying" in the last clause of section 4 (a) to insert the words "the fee provided in section 3 (b) of this Act plus \$5," in lieu of the words "a fee of \$20."

The Bureau of the Budget advises that there is no objection to the submission of this report.

Sincerely yours,

TRUE D. MORSE,
Acting Secretary.

CHANGES IN EXISTING LAW

In compliance with clause 3 of rule XIII of the House of Representatives, changes in existing law made by the bill are shown as follows (existing law proposed to be omitted is enclosed in black brackets; new matter is in italics; existing law in which no change is proposed is shown in roman):

PERISHABLE AGRICULTURAL COMMODITIES ACT, 1930

AN ACT To suppress unfair and fraudulent practices in the marketing of perishable agricultural commodities in interstate and foreign commerce

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, * * **

SEC. 2. It shall be unlawful in or in connection with any transaction in interstate or foreign commerce—

* * * * *

(5) For any commission merchant, dealer, or broker, for a fraudulent purpose, to misrepresent by word, act, mark, stencil, label, statement, or deed, the character, kind, grade, quality, quantity, size, pack, weight, condition, degree of maturity, or State [or country], county, or region of origin of any perishable agricultural commodity received, shipped, sold, or offered to be sold in interstate or foreign commerce;

* * * * *

SEC. 3. * * *

(b) Any person desiring any such license shall make application to the Secretary. The Secretary may by regulation prescribe the information to be contained in such application. Upon the filing of the application, and annually thereafter, the applicant shall pay a fee [of \$15,] not to exceed \$25, which shall be deposited in the Treasury of the United States as a special fund, without fiscal year limitations, to be designated as the "Perishable Agricultural Commodities Act fund", which shall be available for all expenses necessary to the administration of the Act, the Act to prevent the destruction or dumping of farm produce, approved March 3, 1927 (7 U. S. C. 491-497), and the Export Apple and Pear Act, approved June 10, 1933 (7 U. S. C. 581-589): *Provided*, That financial statements prescribed by the Director of the Bureau of the Budget for the last completed fiscal year, and as estimated for the current and ensuing fiscal years, shall be included in the budget as submitted to the Congress annually.

* * * * *

SEC. 4. * * *

(d) [The Secretary may withhold the issuance of a license to an applicant, for a period not to exceed thirty days pending an investigation, for the purpose of determining (a) whether the applicant is unfit to engage in the business of a commission merchant, dealer, or broker by reason of having prior to the date of the application engaged in any practice of the character prohibited by this

Act, or (b) whether the application contains any materially false or misleading statement or involves any misrepresentation, concealment, or withholding of facts respecting any violation of the Act by any officer, agent, or employee of the applicant. If after investigation the Secretary believes that the applicant should be refused a license, the applicant shall be given an opportunity for hearing within sixty days from the date of the application to show cause why the license should not be refused. If after the hearing the Secretary finds that the applicant is unfit to engage in the business of a commission merchant, dealer, or broker by reason of having prior to the date of the application engaged in any practice of the character prohibited by this Act, or because the application contains a materially false or misleading statement made by the applicant or by its representative on its behalf, or involves a misrepresentation, concealment, or withholding of facts respecting any violation of the Act by any officer, agent, or employee, the Secretary shall refuse to issue a license to the applicant.】 *The Secretary may withhold the issuance of a license to an applicant, for a period not to exceed thirty days pending an investigation, for the purpose of determining (a) whether the applicant is unfit to engage in the business of a commission merchant, dealer, or broker because the applicant, or in case the applicant is a partnership, any general partner, or in case the applicant is a corporation, any officer or holder of more than 10 per centum of the stock, prior to the date of the filing of the application engaged in any practice of the character prohibited by this Act or was convicted of a felony in any State or Federal court, or (b) whether the application contains any materially false or misleading statement or involves any misrepresentation, concealment, or withholding of facts respecting any violation of the Act by any officer, agent, or employee of the applicant. If after investigation the Secretary believes that the applicant should be refused a license, the applicant shall be given an opportunity for hearing within sixty days from the date of the application to show cause why the license should not be refused. If after the hearing the Secretary finds that the applicant is unfit to engage in the business of a commission merchant, dealer, or broker because the applicant, or in case the applicant is a partnership, any general partner, or in case the applicant is a corporation, any officer or holder of more than 10 per centum of the stock, prior to the date of the filing of the application engaged in any practice of the character prohibited by this Act or was convicted of a felony in any State or Federal court, or because the application contains a materially false or misleading statement made by the applicant or by its representative on its behalf, or involves a misrepresentation, concealment, or withholding of facts respecting any violation of the Act by any officer, agent, or employee, the Secretary may refuse to issue a license to the applicant.*

(e) *The Secretary may refuse to issue a license to an applicant if he finds that the applicant, or in case the applicant is a partnership, any general partner, or in case the applicant is a corporation, any officer or holder of more than 10 per centum of the stock, has, within three years prior to the date of the application, been adjudicated or discharged as a bankrupt, or was a general partner of a partnership or officer or holder of more than 10 per centum of the stock of a corporation adjudicated or discharged as a bankrupt, unless the applicant furnishes a bond of such nature and amount as may be determined by the Secretary or other assurance satisfactory to the Secretary that the business of the applicant will be conducted in accordance with this Act.*

* * * * *

SEC. 8. * * *

(b) 【The Secretary may, after thirty days' notice and an opportunity for a hearing, revoke the license of any commission merchant, dealer, or broker who, after the date given in such notice, continues to employ in any responsible position any individual whose license was revoked or who was responsibly connected with any firm, partnership, association, or corporation whose license has been revoked. Employment of such individual by a licensee in any responsible position after one year following the revocation of any such license shall be conditioned upon the filing by the employing licensee of a bond, in such reasonable sum as may be fixed by the Secretary, or other assurance satisfactory to the Secretary that its business will be conducted in accordance with the provisions of this Act;】 *The Secretary may, after thirty days' notice and an opportunity for a hearing, suspend or revoke the license of any commission merchant, dealer, or broker who, after the date given in such notice, continues to employ in any responsible position any individual whose license has been revoked or is under suspension or who was responsibly connected with any firm, partnership, association, or corporation whose license has been revoked or is under suspension. Employment of an individual whose license has been revoked or is under suspension for failure to pay a reparation award or who was responsibly connected with any firm, partnership, association, or corporation whose license has been revoked or is under suspension for failure to pay*

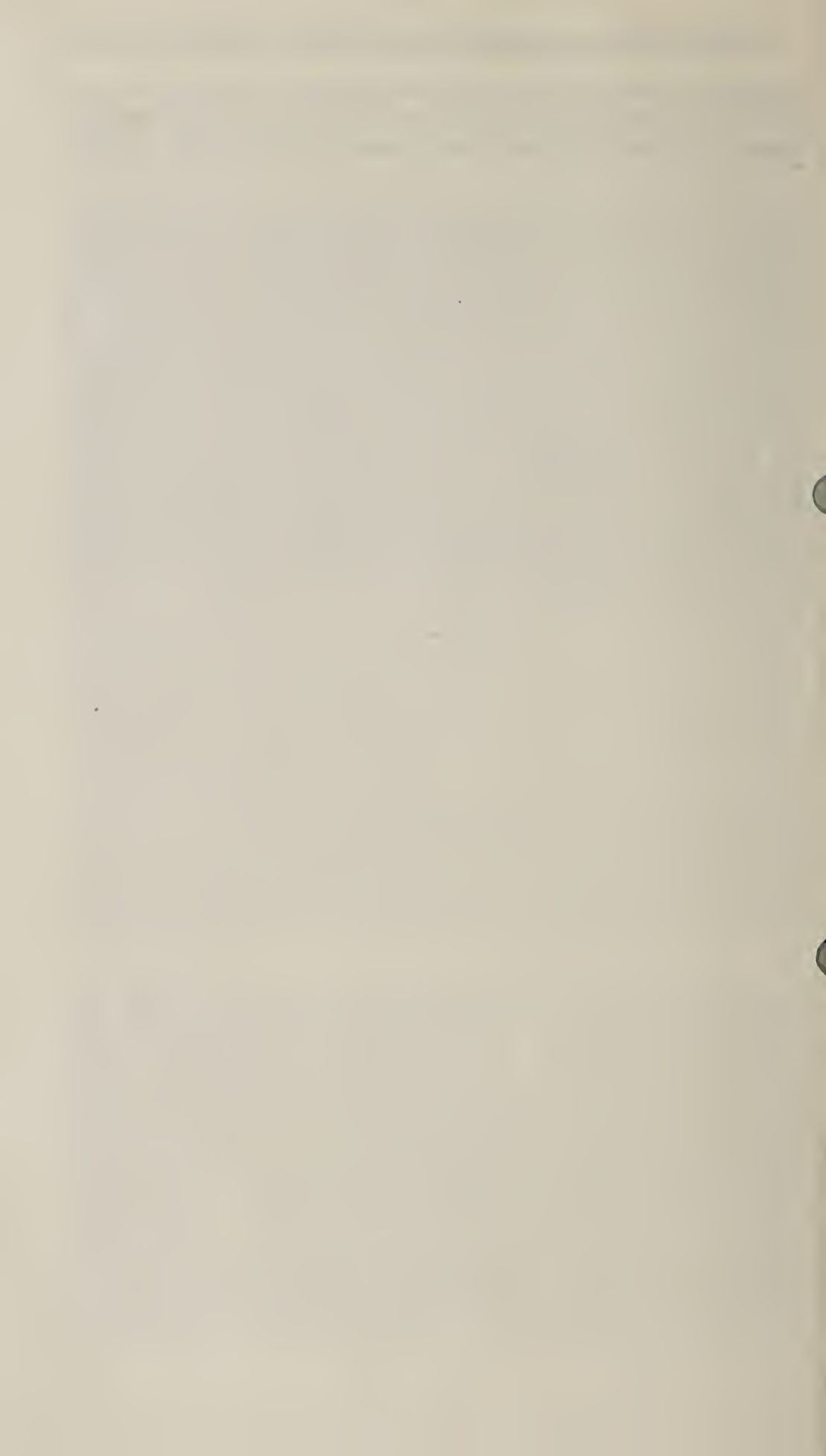
a reparation award after one year following the revocation or suspension of any such license may be permitted by the Secretary upon the filing by the employing licensee of a bond, of such nature and amount as may be determined by the Secretary, or other assurance satisfactory to the Secretary that its business will be conducted in accordance with the provisions of this Act;

* * * * *

SEC. 13. (a) **[**In the investigation of complaints under this Act, the Secretary or his duly authorized agents shall have the right to inspect such accounts, records, and memoranda of any commission merchant, dealer, or broker as may be material for the determination of any such complaint. If any such commission merchant, dealer, or broker refuses to permit such inspection, the Secretary may publish the facts and circumstances and/or, by order, suspend the license of the offender until permission to make such inspection is given.**]** *The Secretary or his duly authorized agents have the right to inspect such accounts, records and memoranda of any commission merchant, dealer, or person, as may be required (1) in the investigation of complaints under this Act; or (2) to the determination of ownership, the control factors in the State, country, or region of origin in connection with the commodity inspection; or (3) to ascertain whether the provisions of this Act are being complied with and if such commission merchant shall refuse permission for inspection, the Secretary may publish the facts and circumstances or order suspended the license which the permission gives. The Secretary or his duly authorized agents shall have the right to inspect any lot of any perishable agricultural commodity covered by this Act, and if any commission merchant, dealer, or broker having ownership of or control over such lot fails or refuses to authorize or allow such inspection, the Secretary may, after thirty days' notice and an opportunity for a hearing, publish the facts and circumstances and/or, by order, suspend the license of the offender for a period not to exceed ninety days.*

* * * * *

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CHIEF, LEGISLATIVE REPORTING
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Union Calendar No. 373

84TH CONGRESS
1ST SESSION

H. R. 5337

[Report No. 1196]

IN THE HOUSE OF REPRESENTATIVES

MARCH 30, 1955

Mr. McINTIRE introduced the following bill; which was referred to the Committee on Agriculture

JULY 18, 1955

Reported with amendments, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

[Omit the part struck through and insert the part printed in italic]

A BILL

To amend the provisions of the Perishable Agricultural Commodities Act, 1930, relating to practices in the marketing of perishable agricultural commodities.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*
3 That section 2 (5) of the Perishable Agricultural Commodi-
4 ties Act, 1930 (7 U. S. C., sec. 499b (5)), is amended to
5 read as follows:

6 “(5) For any commission merchant, dealer, or broker to
7 misrepresent by word, act, mark, stencil, label, statement,
8 or deed, the character, kind, grade, quality, quantity, size,
9 pack, weight, condition, degree of maturity, or State, coun-
10 try, or region of origin of any perishable agricultural com-

1 modity received, shipped, sold, or offered to be sold in in-
2 terstate or foreign commerce;”.

3 *SEC. 2. Section 3 (b) of such Act (7 U. S. C., sec. 499c*
4 *(b)) is amended by striking out in the third sentence the*
5 *words “of \$15” and inserting “not to exceed \$25”.*

6 SEC. 2 3. Section 4 (d) of such Act (7 U. S. C., sec.
7 499b (d)) is amended to read as follows:

8 “(d) The Secretary may withhold the issuance of a
9 license to an applicant, for a period not to exceed thirty
10 days pending an investigation, for the purpose of deter-
11 mining (a) whether the applicant is unfit to engage in the
12 business of a commission merchant, dealer, or broker because
13 the applicant, or in case the applicant is a partnership, any
14 general partner, or in case the applicant is a corporation,
15 any officer or holder of more than 10 per centum of the
16 stock, prior to the date of the filing of the application
17 engaged in any practice of the character prohibited by this
18 Act or was convicted of a felony in any State or Federal
19 court, or (b) whether the application contains any ma-
20 terially false or misleading statement or involves any mis-
21 representation, concealment, or withholding of facts re-
22 specting any violation of the Act by any officer, agent, or
23 employee of the applicant. If after investigation the Secre-
24 tary believes that the applicant should be refused a license,
25 the applicant shall be given an opportunity for hearing

1 within sixty days from the date of the application to show
 2 cause why the license should not be refused. If after the
 3 hearing the Secretary finds that the applicant is unfit to
 4 engage in the business of a commission merchant, dealer,
 5 or broker because the applicant, or in case the applicant is
 6 a partnership, any general partner, or in case the applicant
 7 is a corporation, any officer or holder of more than 10
 8 per centum of the stock, prior to the date of the filing of the
 9 application engaged in any practice of the character pro-
 10 hibited by this Act or was convicted of a felony in any
 11 State or Federal court, or because the application contains
 12 a materially false or misleading statement made by the
 13 applicant or by its representative on its behalf, or involves
 14 a misrepresentation, concealment, or withholding of facts
 15 respecting any violation of the Act by any officer, agent,
 16 or employee, the Secretary ~~shall~~ *may* refuse to issue a license
 17 to the applicant.”

18 SEC. 3 4. Section 4 of such Act is further amended by
 19 adding at the end thereof the following subsection:

20 “(e) The Secretary ~~shall~~ *may* refuse to issue a license
 21 to an applicant if he finds that the applicant, or in case the
 22 applicant is a partnership, any general partner, or in case the
 23 applicant is a corporation, any officer or holder of more than
 24 10 per centum of the stock, has, within three years prior
 25 to the date of the application, been adjudicated or discharged-

1 as a bankrupt, or was a general partner of a partnership or
2 officer or holder of more than 10 per centum of the stock of
3 a corporation adjudicated or discharged as a bankrupt, unless
4 the applicant furnishes a bond of such nature and amount
5 as may be determined by the Secretary or other assurance
6 satisfactory to the Secretary that the business of the applicant
7 will be conducted in accordance with this Act.”

8 SEC. 4 5. Section 8 (b) of such Act (7 U. S. C., sec.
9 499h (b)) is amended to read as follows:

10 “(b) The Secretary may, after thirty days’ notice and
11 an opportunity for a hearing, suspend or revoke the license
12 of any commission merchant, dealer, or broker who, after the
13 date given in such notice, continues to employ in any respon-
14 sible position any individual whose license has been revoked
15 or is under suspension or who was responsibly connected
16 with any firm, partnership, association, or corporation whose
17 license has been revoked or is under suspension. Employ-
18 ment of an individual whose license has been revoked or is
19 under suspension for failure to pay a reparation award or who
20 was responsibly connected with any firm, partnership, asso-
21 ciation, or corporation whose license has been revoked or is
22 under suspension for failure to pay a reparation award after
23 one year following the revocation or suspension of any such
24 license may be permitted by the Secretary upon the filing
25 by the employing licensee of a bond, of such nature and

1 amount as may be determined by the Secretary, or other
2 assurance satisfactory to the Secretary that its business will
3 be conducted in accordance with the provisions of this Act;”.

4 SEC. 5 6. Section 13 (a) of such Act (7 U. S. C., sec.
5 499m (a)) is amended to read as follows:

6 “(a) ~~The Secretary or his duly authorized agents shall~~
7 ~~have the right to inspect all accounts, records, and memo-~~
8 ~~randa of any commission merchant, dealer, or broker, and if~~
9 ~~any such commission merchant, dealer, or broker refuses to~~
10 ~~permit such inspection, the Secretary may publish the facts~~
11 ~~and circumstances and/or, by order, suspend the license of~~
12 ~~the offender until permission to make such inspection is~~
13 ~~given. The Secretary or his duly authorized agents have~~
14 ~~the right to inspect such accounts, records, and memoranda~~
15 ~~of any commission merchant, dealer, or person, as may be~~
16 ~~required (1) in the investigation of complaints under this~~
17 ~~Act; or (2) to the determination of ownership, the control~~
18 ~~factors in the State, country, or region of origin in connection~~
19 ~~with the commodity inspection; or (3) to ascertain whether~~
20 ~~the provisions of this Act are being complied with and if such~~
21 ~~commission merchant shall refuse permission for inspection,~~
22 ~~the Secretary may publish the facts and circumstances or~~
23 ~~order suspended the license which the permission gives. The~~
24 Secretary or his duly authorized agents shall have the right
25 to inspect any lot of any perishable agricultural commodity

1 covered by this Act, and if any commission merchant, dealer,
2 or broker having ownership of or control over such lot fails
3 or refuses to authorize or allow such inspection, the Secre-
4 tary may, after thirty days' notice and an opportunity for a
5 hearing, publish the facts and circumstances and/or, by
6 order, suspend the license of the offender for a period not
7 to exceed ninety days."

84TH CONGRESS
1ST SESSION

H. R. 5337

[Report No. 1196]

A BILL

To amend the provisions of the Perishable
Agricultural Commodities Act, 1930, relat-
ing to practices in the marketing of perish-
able agricultural commodities.

By Mr. McINTIRE

MARCH 30, 1955

Referred to the Committee on Agriculture

JULY 18, 1955

Reported with amendments, committed to the Com-
mittee of the Whole House on the State of the
Union, and ordered to be printed

7/29, 30/55

38. INTERGOVERNMENTAL RELATIONS. Sen. Butler inserted a newspaper article favoring Federal collaboration with State and local governments (p. A5627).
39. COOPERATIVES; TAXATION. Rep. Cooper inserted a letter from the Secretary of the Treasury suggesting that the legislation on income taxation of cooperatives be tightened (pp. A5632-3).
40. ELECTRIFICATION. Sen. Bender inserted an address by J. B. Black favoring a Government-private "partnership" in the power development of the West (pp. A5636-8).

BILLS INTRODUCED - July 29

41. CLAIMS; APPROPRIATIONS. S. 2678, by Sen. Smith, N. J., "relating to the payment of certain claims against the Government where the appropriations therefor have lapsed"; to Government Operations Committee (p. 10341). Remarks of author (pp. 10341-2).
- MARKETING. S. 2634, by Sen. Ellender, "to facilitate the marketing of agricultural commodities"; to Agriculture and Forestry Committee (p. 10341).
43. ACCOUNTING. S. 2677, by Sen. Smith, N. J., "to relieve certain officers of financial liability except in cases of gross negligence or fraud"; to Government Operations Committee (p. 10341). Remarks of author (pp. 10341-2).
44. ROADS. H. R. 7729, by Rep. Dempsey, to authorize road appropriations; to Public Works Committee (p. 10466).
45. LAND TRANSFER. H. R. 7723, to authorize the Secretary of Agriculture to convey certain lands in Phelps County, Mo., to the Chamber of Commerce of Rolla, Mo.; to Agriculture Committee (p. 10466).
46. CONSERVATION. H. J. Res. 415-425, to provide for observance of the 50th anniversary of the founding of the conservation movement for natural resources; to Judiciary Committee (p. 10467).
47. PERSONNEL. H. J. Res. 426, by Rep. Moss, to authorize the President to proclaim as Civil Service Week the week beginning Jan. 17, 1956, in commemoration of the 73rd anniversary of the American civil-service system; to Judiciary Committee (p. 10467).

HOUSE - July 30, 1955

48. SOIL CONSERVATION. Passed without amendment S. 1167, to permit ACP payments to persons who carry out conservation practices on federally owned noncropland which directly conserve or benefit nearby or adjoining private lands of such persons (p. 10589). This bill will now be sent to the President.
- Passed without amendment H. R. 7236, to permit approval of water conservation practices under ACP in any State instead of "in arid or semiarid sections" (p. 10592).

49. MARKETING. Passed with amendments H. R. 5337, to amend the Perishable Agricultural Commodities Act so as to strengthen the provisions relating to misbranding or misrepresentation of grade and origin of fresh fruits and vegetables, increase the maximum annual license fee from the present \$15 per year to \$25, permit the Secretary of Agriculture to deny issuance of a license to any person convicted of a felony in any State or Federal court, authorize the Secretary to

deny a license to any applicant who has been involved in bankruptcy proceedings within 3 years unless the applicant furnishes a bond or other assurance, empower the Secretary to suspend the license of a person who employs in any responsible position an individual whose license is under suspension, and provide authority for the inspection of any perishable commodity covered by the Act (pp. 10590-1).

Passed as reported S. 1757, to amend the Agricultural Marketing Act of 1946 so as to remove any question which may have resulted from a change in appropriation language as to the applicability of penalties for forgery of inspection certificates covering agricultural commodities, and to expand and tighten provisions for such penalties (p. 10607).

The Agriculture Committee reported without amendment H. R. 4054, to provide for loans for development of central market facilities to handle perishable agricultural commodities (H. Rept. 1602)(p. 10677).

50. FARM LOANS. Passed without amendment S. 1758, to amend the Bankhead-Jones Farm Tenant Act relating to the insurance of farm real estate mortgages so the mortgages can be made directly to the Government instead of to the banks (pp. 10593-4). This bill will now be sent to the President.

Passed as reported S. 1621, to authorize adjustment by the Secretary of Agriculture of certain obligations of settlers on projects developed under or subject to the Wheeler-Case Act of 1939 (p. 10655).

51. RESEARCH. Passed as reported S. 1759, to consolidate authorization legislation regarding Federal aid to State agricultural experiment stations (pp. 10594-6).

52. COMMODITY EXCHANGES. Passed without amendment S. 1051, to amend the Commodity Exchange Act so as to authorize increases in fees and charges for registrations and renewals and for copies of registration certificates (p. 10601). This bill will now be sent to the President.

53. TRADE DEVELOPMENT. Passed without amendment S. 2253, to reemphasize trade development as the primary purpose of title I of Public Law 480, 83d Congress; to increase the funds available under that title from \$700 million to \$1.5 billion; and to authorize the Secretary of Agriculture to determine the nation with whom agreements will be negotiated, and the quantities and commodities involved (pp. 10601-2). This bill will now be sent to the President.

54. EXTENSION WORK. Passed as reported S. 2098, to authorize special appropriations for extension work among low-income farmers (pp. 10612-13).

55. DEFENSE PRODUCTION. Passed with amendment S. 2391, to amend and extend the Defense Production Act. Several amendments, to prohibit without-compensation employees, were rejected. House and Senate conferees were appointed. (pp. 10620-30, 10774-5).

56. SUGAR. Passed, 194 to 44, with amendments H. R. 7030, to amend and extend the Sugar Act of 1948 (pp. 10630-51). Agreed, 123-37, to an amendment by Rep. Dixon to strike out Sec. 20 of the committee version, which provides that sugar shall be supported at 90% of parity through loans, purchases, or other operations (pp. 10645-51). Agreed to an amendment by Rep. Laird to strike out provisions directed at Peru and the Philippines (pp. 10644-5).

57. SUPPLEMENTAL APPROPRIATION BILL, 1956. Both Houses agreed to the conference report on this bill, H. R. 7278, and acted upon amendments in disagreement (pp. 10554-9, 10733-5). This bill will now be sent to the President. A statement on the USDA items is attached to this Digest.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

Mr. MILLER of Nebraska. Reserving the right to object, Mr. Speaker, it is my understanding that the Senate bill is a different bill from the one we had in the House. Perhaps the gentleman from Florida [Mr. HALEY] or the gentleman from California [Mr. ENGLE] might clarify that. I do not have the Senate bill before me. I do not want to object to the consideration of this bill, but I wonder if it may not go to the bottom of the calendar so we may have an opportunity to see this Senate bill.

Mr. EDMONDSON. If the gentleman will yield, the Senate bill is identical with the House bill reported out of the committee. There were some amendments adopted in committee which made the House bill identical with the Senate bill. They are identical word for word at this time.

Mr. MILLER of Nebraska. In that case, Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

The Clerk read the bill, as follows:

Be it enacted, etc., That subject to the provisions of section 2 of this Act, the period of restrictions against alienation, lease, mortgage, or other encumbrance of lands belonging to Indians of the Five Civilized Tribes in Oklahoma of one-half degree or more Indian blood, which period was extended to April 26, 1956, by the act of May 10, 1928 (45 Stat. 495), is hereby extended for the lives of the Indians who own such lands subject to such restrictions on the date of this act.

SEC. 2. (a) Any Indian of the Five Civilized Tribes may apply to the Secretary of the Interior for an order removing restrictions. Within 90 days from the date of the application, the Secretary shall either issue the order or disapprove the application. The order shall be issued if in the judgment of the Secretary the applicant has sufficient ability, knowledge, experience, and judgment to enable him, or her, to manage his, or her, business affairs, including the administration, use, investment, and disposition of any property turned over to such person and the income or proceeds therefrom, with such reasonable degree of prudence and wisdom as will be apt to prevent him, or her, from losing such property or the benefits thereof.

(b) The Secretary of the Interior is authorized and directed to issue, without application, to any Indian of the Five Civilized Tribes, who in the judgment of the Secretary is able to manage his, or her, own affairs, in accordance with the standard specified in subsection (a) of this section, an order removing restrictions that will become effective 6 months after notice of the order is given to such Indian, unless it is set aside by a county court in accordance with proceedings initiated prior to such time pursuant to subsection (c) of this section. The timely initiation of such proceedings shall stay the effective date of an order until the proceedings are concluded. When the Secretary issues an order pursuant to this subsection, he shall notify the board of county commissioners for the county in which the Indian resides.

(c) If the Secretary of the Interior disapproves, or fails either to approve or disapprove, an application within the 90-day period prescribed in subsection (a) of this section, the Indian affected may apply to the county court for the county in which

he, or she, resides for an order removing restrictions. If the Secretary issues an order removing restrictions without application therefor in accordance with the provisions of subsection (b) of this section, either the Indian affected or the board of county commissioners may apply to the county court for the county in which the Indian resides for an order setting aside such order. The court shall set a hearing date not less than 30 days from the day it receives the application, and, under rules adopted by the court, notify the board of county commissioners, the welfare departments of the State and county governments, the local representative of the Commissioner of Indian Affairs, and any other persons the court considers appropriate. At the hearing the court shall examine the Indian and may require the persons who appear before the court to give testimony in the matter of the ability of the Indian to manage his, or her, own affairs. The Secretary of the Interior, and the attorney for the county in which such court is located, shall be given an opportunity to appear at such hearings and to participate in the examination of the Indian and other witness. The evidence taken at the hearing shall be transcribed and filed of record in the case. In determining capability, the court shall apply the standard specified in subsection (a) of this section with respect to determinations by the Secretary. If the court finds that the Indian is able to manage his, or her, own affairs, it shall issue an order removing restrictions or deny the application for an order to set aside an order of the Secretary issued without application therefor, as the case may be. If the court does not find that the Indian is able to manage his, or her, own affairs, it shall deny the application for an order removing restrictions, or set aside an order of the Secretary issued without application therefor, as the case may be. The court shall furnish to the Secretary and to the applicant one certified copy of any final order issued by it. Any final order of the court shall be subject to appeal by the applicant, by the Secretary, or by the board of county commissioners in accordance with the probate laws of the State of Oklahoma, except that no appeal bond shall be required in an appeal by the Secretary.

(d) When an order removing restrictions becomes effective, the Secretary shall cause to be turned over to the applicant full ownership and control of any money and property that is held in trust for him or that is held subject to a restriction against alienation imposed by the United States, issuing, in the case of land, such title document as may be appropriate: *Provided*, That the Secretary may make such provisions as he deems necessary to insure payment of money loaned to any such Indian by the Federal Government or by an Indian tribe: *Provided further*, That nothing herein contained shall abrogate the interest of any lessee or permittee in any lease, contract, or permit that is outstanding when an order removing restrictions becomes effective.

SEC. 3. Section 23 of the act of April 26, 1906 (34 Stat. 137), as amended by section 8 of the act of May 27, 1908 (35 Stat. 312), which expires on April 26, 1956, is continued in force with respect to the restricted properties of Indians of the Five Civilized Tribes as long as such properties remain restricted.

SEC. 4. Except as provided in section 2 of this act, nothing in this act shall be construed to repeal or to limit the application of the act of August 4, 1947 (61 Stat. 731), the provisions of which shall continue in effect until otherwise provided by Congress.

SEC. 5. Any existing exemption from taxation that constitutes a vested property right shall continue in force and effect until it terminates by virtue of its own limitations.

The bill was ordered to be read a third time, was read the third time, and passed,

and a motion to reconsider was laid on the table.

A similar House bill (H. R. 7218) was laid on the table.

AMENDING THE SOIL CONSERVATION AND DOMESTIC ALLOTMENT ACT

The Clerk called the bill (S. 1167) to amend the Soil Conservation and Domestic Allotment Act.

The SPEAKER pro tempore. Is there objection to the present consideration of the bill?

Mr. H. CARL ANDERSEN. Mr. Speaker, reserving the right to object, may we have an explanation of this bill?

Mr. COOLEY. Mr. Speaker, the bill provides soil conservation payments to persons who in order to benefit their own lands carry out conservation practices on federally owned lands. Under the law now, there is some question as to the right of one engaged in making these conservation improvements on federally owned land to participate in this program.

Mr. H. CARL ANDERSEN. Mr. Speaker, I withdraw my reservation of objection.

Mr. MILLER of Nebraska. Mr. Speaker, does that also apply to military reservations where they may be farming and where soil conservation practices are applied to those areas?

Mr. COOLEY. I think it applies to all federally owned lands on which soil conservation practices are carried out.

Mr. MILLER of Nebraska. I thank the gentleman.

Mr. HOPE. With reference to the inquiry of the gentleman from Nebraska, there is existing law which applies to federally owned property. This applies to noncrop land so that the question which the gentleman asks has already been taken care of by existing legislation.

The SPEAKER pro tempore. Is there objection to the present consideration of the bill?

There was no objection.

The Clerk read the bill as follows:

Be it enacted, etc., That subsection (e) of section 8 of the Soil Conservation and Domestic Allotment Act, as amended (16 U. S. C. 590h (e)), is amended by adding at the end thereof the following new sentence: "Persons who carry out conservation practices on federally owned noncropland which directly conserve or benefit nearby or adjoining privately owned lands of such persons and who maintain and use such Federal land under agreement with the Federal agency having jurisdiction thereof and who comply with the terms and conditions of the agricultural conservation program formulated pursuant to sections 7 to 17 of this act, as amended, shall be entitled to apply for and receive payments under such program to the same extent as other producers."

The bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

ORANGEBURG COUNTY, S. C.

The Clerk called the resolution (H. J. Res. 112) to release reversionary right to improvements on a 3-acre tract in Orangeburg County, S. C.

There being no objection, the Clerk read the resolution, as follows:

Resolved, etc., That upon the written consent of the directors of the South Carolina Rural Rehabilitation Corporation, the United States of America, acting through the Administrator of the Farmers' Home Administration, is hereby authorized and directed to convey by quitclaim deed to the board of trustees of Orangeburg School District No. 5 (successor in interest to the board of trustees of Jamison School District No. 28) in Orangeburg County, S. C., and unto the successors and assigns of said board of trustees, all of the reversionary and other right, title, or interest retained in the buildings, improvements, and other equipment by the quitclaim deed dated October 31, 1946, and recorded in book No. 141, page 44, in the office of the clerk of court for Orangeburg County, S. C., under which deed the United States of America conveyed said buildings, improvements, and other equipment to the said board of trustees of Jamison School District No. 28 for educational and other related community purposes.

The joint resolution was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

DELAWARE-MARYLAND BOUNDARY

The Clerk called the bill (H. R. 4093) to authorize the Secretary of Commerce, acting through the Coast and Geodetic Survey, to assist the States of Maryland and Delaware to reestablish their common boundary.

The SPEAKER pro tempore. Is there objection to the present consideration of the bill?

Mr. WILLIS. Mr. Speaker, I ask unanimous consent to substitute an identical Senate bill, S. 987.

Mr. CUNNINGHAM. Mr. Speaker, I did not understand what the gentleman's request was going to be. Has the Speaker gotten an answer to the inquiry as to whether or not there was objection to the bill?

Mr. Speaker, I ask unanimous consent that this bill be passed over without prejudice.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Iowa?

Mr. CUNNINGHAM. I might state, Mr. Speaker, so that you will understand why I make this request, the Department of Commerce opposes the enactment of the bill stating that the proposed survey is a matter of primary concern to the two States involved and that it is not a matter of concern for the United States Government, and that the cost of this survey should not be borne by the United States, but should be borne by the States themselves.

Mr. WILLIS. Mr. Speaker, I am advised that there is no proposal to have the Government bear the cost of the survey. Of course, I have no personal interest in this matter and the bill does not affect my State.

Mr. CUNNINGHAM. The report states that it will cost the Government about \$68,000.

Mr. WILLIS. That is the cost for the survey, which is mentioned in the report, but the States are to pay for it—that is my information.

Mr. CUNNINGHAM. That is not according to the information I have, and not according to the report from the Department of Commerce.

Mr. HOFFMAN of Michigan. Mr. Speaker, I object.

The SPEAKER pro tempore. The gentleman from Michigan [Mr. HOFFMAN] objects to the present consideration of the bill.

DREDGING PROJECT AT LOS ANGELES AND LONG BEACH HARBORS, CALIF.

The Clerk called the bill (H. R. 4734) to amend the provisions of the River and Harbor Act of 1954 which authorize the Secretary of the Army to reimburse local interests for work done on a dredging project at Los Angeles and Long Beach Harbors, Calif., during a period ending July 1, 1953, by extending that period to November 7, 1953.

The SPEAKER pro tempore. Is there objection to the present consideration of the bill?

Mr. THOMPSON of New Jersey. Mr. Speaker, reserving the right to object. Is it my understanding that under this legislation local interests who have contributed to the dredging of a channel are now to be reimbursed?

Mr. McDONOUGH. Mr. Speaker, will the gentleman yield?

Mr. THOMPSON of New Jersey. I yield.

Mr. McDONOUGH. Mr. Speaker, I introduced a similar bill, as did Mr. KING. This is just to provide the extension of the date by which time reimbursement can be made for work done by the city of Los Angeles in Los Angeles harbor. The money has already been spent.

Mr. THOMPSON of New Jersey. In other words, the city has spent the money and this will permit them to be reimbursed?

Mr. McDONOUGH. The original authorization bill, which provided for the spending of the money, and for the city to proceed, provided that they could not be reimbursed for any money spent after July 1, 1953. It so happened that the contract could not be completed by that time and it was extended over to a further date, and this will extend the authorization for reimbursement to November 7, 1953.

Mr. THOMPSON of New Jersey. And the money will go back to the city?

Mr. McDONOUGH. That is correct.

Mr. THOMPSON of New Jersey. Mr. Speaker, this is a very good bill. I disapprove of any local interests contributing to any dredging projects. This disapproval applies particularly to the deeper Delaware project, but also to all others. It is the responsibility of the Federal Government to maintain all navigable waters.

Mr. McDONOUGH. In other words, the gentleman does not object to this bill?

Mr. THOMPSON of New Jersey. I have no objection and I withdraw my reservation of objection, Mr. Speaker.

The SPEAKER pro tempore. Is there objection to the present consideration of the bill?

There was no objection.

The Clerk read the bill, as follows:

Be it enacted, etc., That the paragraph of section 101 of the River and Harbor Act of 1954 which begins "Los Angeles and Long Beach Harbors, Calif.:" is amended by striking out "July 1, 1953" and inserting in lieu thereof "November 7, 1953."

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

AMENDMENTS TO PERISHABLE AGRICULTURAL COMMODITIES ACT

The Clerk called the bill (H. R. 5337) to amend the provisions of the Perishable Agricultural Commodities Act, 1930, relating to practices in the marketing of perishable agricultural commodities.

There being no objection, the Clerk read the bill, as follows:

Be it enacted, etc., That section 2 (5) of the Perishable Agricultural Commodities Act, 1930 (7 U. S. C., sec. 499b (5)), is amended to read as follows:

"(5) For any commission merchant, dealer, or broker to misrepresent by word, act, mark, stencil, label, statement, or deed, the character, kind, grade, quality, quantity, size, pack, weight, condition, degree of maturity, or State, country, or region of origin of any perishable agricultural commodity received, shipped, sold, or offered to be sold in interstate or foreign commerce;"

SEC. 2. Section 4 (d) of such act (7 U. S. C., sec. 499b (d)) is amended to read as follows:

"(d) The Secretary may withhold the issuance of a license to an applicant, for a period not to exceed 30 days pending an investigation, for the purpose of determining (a) whether the applicant is unfit to engage in the business of a commission merchant, dealer, or broker because the applicant, or in case the applicant is a partnership, any general partner, or in case the applicant is a corporation, any officer or holder of more than 10 percent of the stock, prior to the date of the filing of the application engaged in any practice of the character prohibited by this act or was convicted of a felony in any State or Federal court, or (b) whether the application contains any materially false or misleading statement or involves any misrepresentation, concealment, or withholding of facts respecting any violation of the act by any officer, agent, or employee of the applicant. If after investigation the Secretary believes that the applicant should be refused a license, the applicant shall be given an opportunity for hearing within 60 days from the date of the application to show cause why the license should not be refused. If after the hearing the Secretary finds that the applicant is unfit to engage in the business of a commission merchant, dealer, or broker because the applicant, or in case the applicant is a partnership, any general partner, or in case the applicant is a corporation, any officer or holder of more than 10 percent of the stock, prior to the date of the filing of the application engaged in any practice of the character prohibited by this act or was convicted of a felony in any State or Federal court, or because the application contains a materially false or misleading statement made by the applicant or by its representative on its behalf, or involves a misrepresentation, concealment, or withholding of facts respecting any violation of the act by any officer, agent, or employee, the Secretary shall refuse to issue a license to the applicant."

SEC. 3. Section 4 of such act is further amended by adding at the end thereof the following subsection:

"(e) The Secretary shall refuse to issue a license to an applicant if he finds that the applicant, or in case the applicant is a partnership, any general partner, or in case the applicant is a corporation, any officer or holder of more than 10 percent of the stock, has, within 3 years prior to the date of the application, been adjudicated or discharged as a bankrupt, or was a general partner of a partnership or officer or holder of more than 10 percent of the stock of a corporation adjudicated or discharged as a bankrupt, unless the applicant furnishes a bond of such nature and amount as may be determined by the Secretary or other assurance satisfactory to the Secretary that the business of the applicant will be conducted in accordance with this act."

SEC. 4. Section 8 (b) of such act (7 U. S. C., sec. 499h (b)) is amended to read as follows:

"(b) The Secretary may, after 30 days' notice and an opportunity for a hearing, suspend or revoke the license of any commission merchant, dealer, or broker who, after the date given in such notice, continues to employ in any responsible position any individual whose license has been revoked or is under suspension or who was responsibly connected with any firm, partnership, association, or corporation whose license has been revoked or is under suspension. Employment of an individual whose license has been revoked or is under suspension for failure to pay a reparation award or who was responsibly connected with any firm, partnership, association, or corporation whose license has been revoked or is under suspension for failure to pay a reparation award after one year following the revocation or suspension of any such license may be permitted by the Secretary upon the filing by the employing licensee of a bond, of such nature and amount as may be determined by the Secretary, or other assurance satisfactory to the Secretary that its business will be conducted in accordance with the provisions of this act;"

SEC. 5. Section 13 (a) of such act (7 U. S. C., sec. 499m (a)) is amended to read as follows:

"(a) The Secretary or his duly authorized agents shall have the right to inspect all accounts, records, and memoranda of any commission merchant, dealer, or broker, and if any such commission merchant, dealer, or broker refuses to permit such inspection, the Secretary may publish the facts and circumstances and/or, by order, suspend the license of the offender until permission to make such inspection is given. The Secretary or his duly authorized agents shall have the right to inspect any lot of any perishable agricultural commodity covered by this act, and if any commission merchant, dealer, or broker having ownership of or control over such lot fails or refuses to authorize or allow such inspection, the Secretary may, after 30 days' notice and an opportunity for a hearing, publish the facts and circumstances and/or, by order, suspend the license of the offender for a period not to exceed 90 days."

With the following committee amendments:

Page 2, following line 2, add the following new section:

"SEC. 2. Section 3 (b) of such act (7 U. S. C., sec. 499c (b)) is amended by striking out in the third sentence the words 'of \$15' and inserting 'not to exceed \$25.'"

Page 2, line 3, change "SEC. 2" to "SEC. 3." Page 3, line 13, strike out "shall" and insert "may."

Page 3, line 15, change "SEC. 3" to "SEC. 4." Page 3, line 17, strike out "shall" and insert "may."

Page 4, line 5, change "SEC. 4" to "SEC. 5." Page 5, line 1, change "SEC. 5" to "SEC. 6."

The committee amendments were agreed to.

The SPEAKER pro tempore. The Clerk will report the next committee amendment.

The Clerk read as follows:

Page 5, beginning on line 3, strike out all of the first sentence through and including "given," on line 10, and insert:

"The Secretary or his duly authorized agents have the right to inspect such accounts, records, and memoranda of any commission merchant, dealer, or person, as may be required (1) in the investigation of complaints under this act; or (2) to the determination of ownership, the control factors in the State, country, or region of origin in connection with the commodity inspection; or (3) to ascertain whether the provisions of this act are being complied with and if such commission merchant shall refuse permission for inspection, the Secretary may publish the facts and circumstances or order suspended the licenses which the permission gives."

Mr. McINTIRE. Mr. Speaker, I offer an amendment to the committee amendment.

The Clerk read as follows:

Amendment offered by Mr. McINTIRE to the committee amendment:

Page 5, line 13, insert "shall" after "agents."

Page 5, line 17, strike out "the" and insert a comma after "control."

Page 5, line 18, strike out "factors in the state" and insert "packer" and insert thereafter a comma followed by the words "or state" followed by a comma.

Page 5, line 20, strike out "the provisions" and insert "Sec. 9" and strike out "are" and insert "is."

The amendment to the committee amendment was agreed to.

The committee amendment as amended was agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

ISSUANCE OF PATENTS FOR CERTAIN LANDS BORDERING UPON INDIAN RIVER, FLA.

The Clerk called the bill (H. R. 6101) to authorize the Secretary of the Interior to issue patents for certain lands in Florida bordering upon Indian River.

The SPEAKER pro tempore. Is there objection to the present consideration of the bill?

There was no objection.

Mr. ENGLE. Mr. Speaker, I ask unanimous consent that the bill (S. 464) to authorize the Secretary of the Interior to issue patents for certain lands in Florida bordering on Indian River, an identical Senate bill, be considered in lieu of the House bill.

The SPEAKER pro tempore. Is there objection to the gentleman from California?

There was no objection.

The Clerk read the Senate bill, as follows:

Be it enacted, etc., That the Secretary of the Interior shall issue patents for the public lands erroneously omitted from the survey which are situated between the position of the record meander line represented on the plat approved March 10, 1845, and the actual shoreline of the Indian River in sections 11, 13, 14, 23, 24, 25, and 36, township 27 south, range 37 east, Tallahassee Meridian,

Fla., to persons who hold such public lands in good faith and in peaceful adverse possession, if they or their predecessors in interest have been issued patents, prior to January 1, 1954, for the upland tracts adjoining such erroneously omitted lands. Payment to the United States shall be made for lands so patented at the same price per acre as that at which the land included in the original patent was purchased, but in no case less than \$1.25 per acre. No patent shall issue for any tract unless application for the tract is made by a qualified person within 1 year from the date of enactment of this act. The Secretary shall issue no patents until the conclusion of such period. The Secretary may, by public sale at not less than the appraised value or under any appropriate public land law, dispose of any tract of public land subject to this act which is not applied for by a qualified person within the 1-year period.

SEC. 2. Upon the filing of a plat of resurvey under section 1 of this act, the Secretary shall give such notice as he finds appropriate by newspaper publication or otherwise of the opening of the lands to purchase under this act.

SEC. 3. Nothing in this act shall affect valid existing rights.

The bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

A similar House bill (H. R. 6101) was laid on the table.

LAND EXCHANGES FOR COLONIAL NATIONAL HISTORICAL PARK, VA.

The Clerk called the bill (H. R. 5280) to authorize land exchanges for purposes of Colonial National Historical Park, in the State of Virginia, and for other purposes.

There being no objection, the Clerk read the bill, as follows:

Be it enacted, etc., That for the purpose of preserving more effectively for the public benefit the historic properties within Colonial National Historical Park, Va., the Secretary of the Interior is authorized to consummate desirable land exchanges, as hereafter prescribed, and thereby to reduce and adjust the boundaries of the park. Any lands eliminated from the park hereunder shall not subsequently be added to the park except by act of Congress.

In furtherance of these purposes, the Secretary is authorized on behalf of the United States to accept from grantors title to non-Federal land and interests in land, together with the improvements thereon, situated within the authorized park boundaries, and in exchange therefor, to convey by deed on behalf of the United States to the aforesaid grantors land or interests therein, together with the improvements thereon, situated within Colonial National Historical Park that may be used advantageously for exchange purposes. The aforesaid exchanges are authorized to be made without additional compensation by either party to the exchange when the properties to be exchanged are of approximately equal value. When, however, the properties are not of approximately equal value, as may be determined by the Secretary, an additional payment of funds shall be required by the Secretary or by the grantor of non-Federal properties, as the case may be, in order to make an equal exchange. The Secretary is authorized to use any land acquisition funds relating to the National Park System for such purposes. The Secretary may consummate land exchanges herein authorized upon such terms, conditions, and procedures as

he may find to be necessary or desirable in carrying out the purposes of this act; and in evaluating non-Federal properties to be acquired hereunder, he is authorized to make such allowance as he may find to be equitable for the value of any residential properties that may be situated upon land to be acquired pursuant to this act. If expedient and in the public interest to do so, he may assist in the removal of structures from property to be acquired hereunder through the exchange procedure, and he may cooperate with public or private agencies and persons in the securing of housing for the aforesaid grantors who may require new housing accommodations or facilities as a result of the land exchanges herein authorized.

In the event that suitable land exchanges cannot be agreed upon in all cases for purposes of this act, the Secretary is authorized to sell those parcels of park land that otherwise would have been offered and conveyed through exchange procedures herein authorized. The Secretary is authorized to retain in a special receipt account and to expend any funds that he may obtain from such sales of property for the acquisition of non-Federal properties within the authorized boundaries of the Colonial National Historical Park.

With the following committee amendments:

Page 3, strike all of lines 10 to 19 inclusive.
Page 3, add the following new section:

"Sec. 2. The Secretary is further authorized to transfer without compensation up to 15 acres of the Colonial National Historical Park, Va., to the Commonwealth of Virginia for use by agencies of the Commonwealth in the establishment of a State park in furtherance of the purposes of the Colonial National Historical Park."

The committee amendments were agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed.

The title was amended so as to read: "A bill to authorize land exchanges for purposes of Colonial National Historical Park, in the State of Virginia; to authorize the transfer of certain lands of Colonial National Historical Park, in the State of Virginia, to the Commonwealth of Virginia, and for other purposes."

A motion to reconsider was laid on the table.

ACP WATER CONSERVATION PRACTICES

The Clerk called the bill (H. R. 7236) to amend section 8 (b) of the Soil Conservation and Domestic Allotment Act with respect to water-conservation practices.

There being no objection, the Clerk read the bill, as follows:

Be it enacted, etc., That the second sentence of section 8 (b) of the Soil Conservation and Domestic Allotment Act, as amended (16 U. S. C., sec. 590h (b)), is amended by striking out of said sentence "in arid or semiarid sections," and inserting in lieu thereof "Clasues."

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

EXPORT SALES OF SURPLUS STORABLE COMMODITIES

The Clerk called the bill (H. R. 7252) to permit sale of Commodity Credit Corporation stock of basic and storable non-basic agricultural commodities without restriction where similar commodities are exported in raw or processed form.

The SPEAKER pro tempore. Is there objection to the present consideration of the bill?

Mr. SAYLOR. Mr. Speaker, I object.

PROVIDING RUNNING MATES FOR CERTAIN STAFF CORPS OFFICERS IN THE NAVAL SERVICE

The Clerk called the bill (H. R. 4229) to provide running mates for certain staff officers in the naval service and for other purposes.

The SPEAKER pro tempore. Is there objection to the present consideration of the bill?

Mr. YATES. Mr. Speaker, reserving the right to object, will a member of the committee explain this bill?

Mr. KILDAY. Mr. Speaker, this bill is for the purpose of adjusting and really rectifying the present system of promotions for the Staff Corps of the Navy. It would affect members of the Staff Corps only at the time they are promoted from midshipman to lieutenant, junior grade. At the present time, there is what is known, of course, as the running-mate system, which has been in existence for many years. Promotion from midshipman to lieutenant, junior grade, is automatic. At that time, therefore, the individual acquires his running mate. Under the present system it is possible for the man who came out of the Naval Academy at the very top or very high in his class to acquire a running mate which was very junior to him at the time they graduated from the Academy. This would eliminate that disparity and permit the party ranking with him or in his regular precedence at the time of graduation.

Mr. YATES. Does this bill eliminate the fanning system as far as junior officers are concerned?

Mr. KILDAY. That is the purpose of the bill.

Mr. YATES. The purpose of it will be also to give a greater break to members of the Staff Corps?

Mr. KILDAY. That is correct.

Mr. YATES. Permit their being considered for promotion to higher ratings at an earlier time than they are being considered for promotion under present law?

Mr. KILDAY. Yes; at an earlier time.

The SPEAKER pro tempore. Is there objection to the present consideration of the bill?

There being no objection, the Clerk read the bill, as follows:

Be it enacted, etc., That paragraph (3) of section 311 (d) of the Officer Personnel Act of 1947, as amended, is further amended by—

(a) inserting in the first sentence after the comma which follows the parenthetical

phrase "(Public Law 347, 79th Cong.)" the words "or the act of August 13, 1946 (ch. 962, 60 Stat. 1057), and except those appointed from graduates of the United States Naval Academy,"; and

(b) Substituting a colon for the period at the end of the paragraph and adding the following: "Provided further, That each officer appointed in the grade of ensign in the Navy under the act of August 13, 1946 (ch. 962, 60 Stat. 1057), or upon graduation from the United States Naval Academy who is serving as an officer in a staff corps at the time of his promotion to lieutenant (junior grade) shall, upon promotion, be assigned as his running mate the line lieutenant (junior grade) with date of rank in the same calendar year who would be next senior to him had the officer of the staff corps been originally appointed to the grade of ensign in the line and continued to serve as a line officer to the date of his promotion to lieutenant (junior grade) or if there be no such officer the line officer who would have been next junior."

SEC. 2. Each officer of a staff corps, who is a graduate of the United States Naval Academy or who was appointed as an ensign under the act of August 13, 1946 (ch. 962, 60 Stat. 1057), and who prior to the effective date of this act, was assigned a running mate in the grade of lieutenant (junior grade) under paragraph (3) of section 311 (d) of the Officer Personnel Act of 1947, as amended, shall have assigned as his running mate, in the grade in which he is serving on the effective date of this act, the line officer who would have been his running mate in that grade had paragraph (3) of section 311 (d) been amended as provided in section 1 of this act prior to the date upon which he was assigned a running mate in the grade of lieutenant (junior grade).

SEC. 3. No back pay or allowances shall accrue to any officer of the naval service as the result of the enactment of this act.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

AMENDING BANKRUPTCY ACT AS TO UNCLAIMED MONEYS

The Clerk called the bill (H. R. 6247) to amend subdivision a of section 66—unclaimed moneys—of the Bankruptcy Act, as amended, and to repeal subdivision b of section 66 of the Bankruptcy Act, as amended.

There being no objection, the Clerk read the bill, as follows:

Be it enacted, etc., That subdivision a of section 66 of the Bankruptcy Act, as amended, is hereby amended by adding at the end thereof the following additional sentence: "Such moneys and dividends shall be deposited and withdrawn as provided in title 28, United States Code, section 2042, and shall not be subject to escheat under the laws of any State."

SEC. 2. Subdivision b of section 66 of the Bankruptcy Act is hereby repealed.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

INCREASING COMPENSATION OF TRUSTEES IN BANKRUPTCY

The Clerk called the bill (H. R. 5047) to increase the compensation of trustees in bankruptcy.

H. R. 5337

TO AMEND THE ACT OF MARCH TWENTY-NINE, ONE THOUSAND NINETEEN HUNDRED AND SEVEN, RELATIVE TO THE NATIONAL BUREAU OF FIREARMS INVESTIGATION, AND FOR OTHER PURPOSES.

March 1937.

Recessed until the next session of the House of Representatives.

AN ACT

To amend the provisions of the Federal Firearms Control Act, approved March twenty-nine, nineteen hundred and seven, relating to the National Bureau of Firearms Investigation, and for other purposes.

1. The National Bureau of Firearms Investigation, established by the Act of March twenty-nine, nineteen hundred and seven, is hereby authorized to conduct investigations and to make reports to the Department of Justice.
2. The Bureau of Firearms Investigation is authorized to make reports to the Department of Justice.
3. The Bureau of Firearms Investigation is authorized to make reports to the Department of Justice.

84TH CONGRESS
1ST SESSION

H. R. 5337

IN THE SENATE OF THE UNITED STATES

AUGUST 1, 1955

Read twice and referred to the Committee on Agriculture and Forestry

AN ACT

To amend the provisions of the Perishable Agricultural Commodities Act, 1930, relating to practices in the marketing of perishable agricultural commodities.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*
3 That section 2 (5) of the Perishable Agricultural Commodi-
4 ties Act, 1930 (7 U. S. C., sec. 499b (5)), is amended to
5 read as follows:

6 “(5) For any commission merchant, dealer, or broker to
7 misrepresent by word, act, mark, stencil, label, statement,
8 or deed, the character, kind, grade, quality, quantity, size,
9 pack, weight, condition, degree of maturity, or State, coun-
10 try, or region of origin of any perishable agricultural com-

1 modity received, shipped, sold, or offered to be sold in inter-
2 state or foreign commerce;”.

3 SEC. 2. Section 3 (b) of such Act (7 U. S. C., sec. 499c
4 (b)) is amended by striking out in the third sentence the
5 words “of \$15” and inserting “not to exceed \$25”.

6 SEC. 3. Section 4 (d) of such Act (7 U. S. C., sec.
7 499b (d)) is amended to read as follows:

8 “(d) The Secretary may withhold the issuance of a
9 license to an applicant, for a period not to exceed thirty
10 days pending an investigation, for the purpose of deter-
11 mining (a) whether the applicant is unfit to engage in the
12 business of a commission merchant, dealer, or broker because
13 the applicant, or in case the applicant is a partnership, any
14 general partner, or in case the applicant is a corporation,
15 any officer or holder of more than 10 per centum of the
16 stock, prior to the date of the filing of the application
17 engaged in any practice of the character prohibited by this
18 Act or was convicted of a felony in any State or Federal
19 court, or (b) whether the application contains any ma-
20 terially false or misleading statement or involves any mis-
21 representation, concealment, or withholding of facts re-
22 specting any violation of the Act by any officer, agent, or
23 employee of the applicant. If after investigation the Secre-
24 tary believes that the applicant should be refused a license,
25 the applicant shall be given an opportunity for hearing

1 within sixty days from the date of the application to show
2 cause why the license should not be refused. If after the
3 hearing the Secretary finds that the applicant is unfit to
4 engage in the business of a commission merchant, dealer,
5 or broker because the applicant, or in case the applicant is
6 a partnership, any general partner, or in case the applicant
7 is a corporation, any officer or holder of more than 10
8 per centum of the stock, prior to the date of the filing of the
9 application engaged in any practice of the character pro-
10 hibited by this Act or was convicted of a felony in any
11 State or Federal court, or because the application contains
12 a materially false or misleading statement made by the
13 applicant or by its representative on its behalf, or involves
14 a misrepresentation, concealment, or withholding of facts
15 respecting any violation of the Act by any officer, agent,
16 or employee, the Secretary may refuse to issue a license to
17 the applicant.”

18 SEC. 4. Section 4 of such Act is further amended by
19 adding at the end thereof the following subsection:

20 “(e) The Secretary may refuse to issue a license to
21 an applicant if he finds that the applicant, or in case the
22 applicant is a partnership, any general partner, or in case the
23 applicant is a corporation, any officer or holder of more than
24 10 per centum of the stock, has, within three years prior
25 to the date of the application, been adjudicated or discharged

1 as a bankrupt, or was a general partner of a partnership or
2 officer or holder of more than 10 per centum of the stock of
3 a corporation adjudicated or discharged as a bankrupt, unless
4 the applicant furnishes a bond of such nature and amount
5 as may be determined by the Secretary or other assurance
6 satisfactory to the Secretary that the business of the applicant
7 will be conducted in accordance with this Act.”

8 SEC. 5. Section 8 (b) of such Act (7 U. S. C., sec.
9 499h (b)) is amended to read as follows:

10 “(b) The Secretary may, after thirty days’ notice and
11 an opportunity for a hearing, suspend or revoke the license
12 of any commission merchant, dealer, or broker who, after the
13 date given in such notice, continues to employ in any respon-
14 sible position any individual whose license has been revoked
15 or is under suspension or who was responsibly connected
16 with any firm, partnership, association, or corporation whose
17 license has been revoked or is under suspension. Employ-
18 ment of an individual whose license has been revoked or is
19 under suspension for failure to pay a reparation award or who
20 was responsibly connected with any firm, partnership, asso-
21 ciation, or corporation whose license has been revoked or is
22 under suspension for failure to pay a reparation award after
23 one year following the revocation or suspension of any such
24 license may be permitted by the Secretary upon the filing
25 by the employing licensee of a bond, of such nature and

1 amount as may be determined by the Secretary, or other
2 assurance satisfactory to the Secretary that its business will
3 be conducted in accordance with the provisions of this Act;”.

4 SEC. 6. Section 13 (a) of such Act (7 U. S. C., sec.
5 499m (a)) is amended to read as follows:

6 “(a) The Secretary or his duly authorized agents shall
7 have the right to inspect such accounts, records, and mem-
8 oranda of any commission merchant, dealer, or person, as
9 may be required (1) in the investigation of complaints
10 under this Act; or (2) to the determination of ownership,
11 control, packer, or state, country, or region of origin in
12 connection with the commodity inspection; or (3) to ascer-
13 tain whether Section 9 of this Act is being complied with
14 and if such commission merchant shall refuse permission for
15 inspection, the Secretary may publish the facts and circum-
16 stances or order suspended the license which the permission
17 gives. The Secretary or his duly authorized agents shall
18 have the right to inspect any lot of any perishable agricul-
19 tural commodity covered by this Act, and if any commission
20 merchant, dealer, or broker having ownership of or control
21 over such lot fails or refuses to authorize or allow such inspec-
22 tion, the Secretary may, after thirty days’ notice and an
23 opportunity for a hearing, publish the facts and circumstances

- 1 and/or, by order, suspend the license of the offender for a
2 period not to exceed ninety days.”

Passed the House of Representatives July 30, 1955.

Attest:

RALPH R. ROBERTS,

Clerk.

AN ACT

To amend the provisions of the Perishable Agricultural Commodities Act, 1930, relating to practices in the marketing of perishable agricultural commodities.

August 1, 1955

Read twice and referred to the Committee on
Agriculture and Forestry

NO. 5000 H. R. 5337

AN ACT

To amend the Act approved July 1, 1906, entitled "An Act to provide for the collection of the duties on imports of certain goods from the Republic of Cuba," and for other purposes.

Approved July 1, 1906.

Digest of CONGRESSIONAL PROCEEDINGS

OF INTEREST TO THE DEPARTMENT OF AGRICULTURE

OFFICE OF BUDGET AND FINANCE
(For Department Staff Only)

Issued July 11, 1956
For actions of July 10, 1956
84th-2nd, No. 116

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HIGHLIGHTS: Senate committees ordered reported the following bills: Farm loan bill. Broaden authority for use and occupancy of land within national forests. Broaden law on practices in marketing perishable commodities. Permit processors to buy cotton futures contracts. Eliminate delay in starting watershed projects. Dispose of Akron synthetic rubber laboratory. House Rules Committee cleared supplemental appropriation bill. House agreed to resolution for consideration of marketing facilities bill. House committee ordered reported bill to add cranberries for canning and freezing to Marketing Agreement Act. House agreed to resolution for consideration of trip leasing bill. Rep. Johnson, Wis., discussed need for stabilizing income of dairy farmers.

HOUSE

1. APPROPRIATIONS. The Rules Committee reported a resolution for consideration of H. R. 12138, the supplemental appropriation bill for 1957. p. 11069
2. TRANSPORTATION. Agreed to a resolution for consideration of S. 898, to amend the Interstate Commerce Act so as to authorize ICC to regulate the use by motor carriers (under leases, contracts, or other arrangements) of motor vehicles not owned by them, in the furnishing of transportation of property, but to prohibit regulation of the duration of, or the terms of pay under, certain trip-leasing arrangements. p. 11074
3. MARKETING. Agreed to a resolution for the consideration of H. R. 4054, to provide a system of mortgage insurance to municipal and other political subdivisions of the States, to be administered by USDA, for the expansion of public marketing of perishable commodities. p. 11075
The Agriculture Committee ordered reported H. R. 8384, to extend the provisions of the Agricultural Marketing Agreement Act of 1937, to cranberries for canning or freezing processing. p. D767

1. The first part of the paper discusses the importance of maintaining accurate records of all transactions. It emphasizes that proper record-keeping is essential for the success of any business and for the protection of the interests of all parties involved.

2. The second part of the paper deals with the various methods of record-keeping. It compares the advantages and disadvantages of different systems, such as the use of ledgers, journals, and other accounting books. It also discusses the importance of choosing a system that is suitable for the size and nature of the business.

3. The third part of the paper discusses the importance of maintaining accurate records of all transactions. It emphasizes that proper record-keeping is essential for the success of any business and for the protection of the interests of all parties involved.

4. The fourth part of the paper discusses the importance of maintaining accurate records of all transactions. It emphasizes that proper record-keeping is essential for the success of any business and for the protection of the interests of all parties involved.

5. The fifth part of the paper discusses the importance of maintaining accurate records of all transactions. It emphasizes that proper record-keeping is essential for the success of any business and for the protection of the interests of all parties involved.

Digest of CONGRESSIONAL PROCEEDINGS

OF INTEREST TO THE DEPARTMENT OF AGRICULTURE

OFFICE OF BUDGET AND FINANCE
(For Department Staff Only)

Issued July 12, 1956
For actions of July 11, 1956
84th-2nd, No. 117

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HIGHLIGHTS: Senate ratified International Wheat Agreement. Senate committees reported the following bills: Farm loan bill. Broaden authority for use and occupancy of land within national forests. Broaden law on practices in marketing perishable commodities. Forest products price reporting. Permit processors to buy cotton futures contracts. Eliminate delay in starting watershed projects. Dispose of Akron synthetic rubber laboratory. Senate received from President supplemental appropriation request for commission on Increased Use of Agricultural Products.
(Continued on page 7)

HOUSE

1. FOREIGN AID. Passed with amendments H. R. 12130, the mutual security appropriation bill, by a vote of 120 to 284. The amendments adopted would provide that not less than \$15,000,000 of the \$35,000,000 for Latin American defense support be used to aid Guatamala, and that no funds contained in the mutual security appropriation bill be used for international educational exchange activities.
p. 11180
2. FOREIGN TRADE. Both Houses received from the President the 4th semi-annual report on activities carried on under Public Law 480, 83rd Congress (H. Doc. 447); to the Senate Agriculture and Forestry Committee and the House Agriculture Committee. pp. 11085, 11224
The Ways and Means Committee reported with amendment H. R. 9396, to amend the Tariff Act of 1930 to place guar seed on the free list (H. Rept. 2681).
p. 11235
3. WATER SUPPLY. The Public Works Committee reported without amendment S. 2374, to authorize the Secretary of the Army to enter into contracts to furnish water for municipal water supplies from flood control and river and harbor projects (H. Rept. 2683). p. 11236

4. BUDGETING; ACCOUNTING. The Government Operations Committee ordered reported H. R. 11526, to improve governmental budgeting and accounting methods and procedures. p. D778
5. PERSONNEL. The Government Operations Committee ordered reported H. R. 11515, to provide for the payment of travel and transportation cost for persons selected for appointment to certain positions in the U. S. and Alaska. p.D778
6. RECLAMATION. Received the new conference report, subsequent to an order to recommit, on S. 1622, to authorize the Secretary of the Interior to make payment for certain improvements located on public lands in the Rapid Valley unit, S. Dak., of the Missouri River Basin project (H. Rept. 2677). p. 11179
7. ATOMIC ENERGY. The Joint Committee on Atomic Energy ordered reported the following bills: p. D778
H. R. 9743 and S. 2643, to encourage maximum development of atomic energy reactors for the generation of low-cost electric power and the production, utilization, and treatment of special nuclear and other materials.
S. 4203, to amend the Atomic Energy Act of 1954 "(so-called AEC omnibus bill)".

SENATE

8. WHEAT. By a vote of 85 to 2, agreed to a resolution of ratification on the International Wheat Agreement of 1956, extending the Agreement for 3 years. The Agreement covers 303 million bushels of wheat, as compared to 395 million covered in the 1953 Agreement; sets the price range of wheat at \$1.50 to \$2.00 a bushel, as compared with \$1.55 and \$2.05 in the 1953 agreement; and adds two new exporting countries - Argentina and Sweden. p. 11102
9. AGRICULTURE AND FORESTRY COMMITTEE reported the following bills: ~~pp. 11090;~~
~~11091~~
H. R. 7723, with amendment, to authorize the Secretary of Agriculture to convey certain lands in Phelps Co., Mo., to the Chamber of Commerce of Rolla, Mo. (S. Rept. 2513);
S. 4059, without amendment, to provide for price reporting and research with respect to forest products (S. Rept. 2510);
H. R. 5337, with ~~amendments~~ amendments, to broaden the provisions of law relating to practices in the marketing of perishable agricultural commodities (S. Rept. 2507);
H. R. 9333, without amendment, to give to certain consuming processors of cotton the privilege of buying cotton futures contracts in certain cases (S. Rept. 2506);
H. R. 9339, without amendment, authorizing the exchange of certain U. S. lands in Union County, Ga., for lands in the Chattahoochee National Forest (S. Rept. 2508);
H. R. 11873, without amendment, to decrease the Congressional review period of projects under the Watershed Protection and Flood Prevention Act from 45 days to 15 days (S. Rept. 2509);
S. 3429, with amendment, to improve and simplify the credit facilities available to farmers and to amend the Bankhead-Jones Farm Tenant Act (S. Rept. 2526);
S. 2216, with amendment, to amend the act of March 4, 1915, to permit the use and occupancy of national forest lands for industrial and commercial purposes, and by States or political subdivisions for constructing facilities for education or other public uses (S. Rept. 2511);

STRENGTHENING THE PERISHABLE AGRICULTURAL
COMMODITIES ACT, 1930

JULY 11, 1956.—Ordered to be printed

Mr. ELLENDER, from the Committee on Agriculture and Forestry,
submitted the following

R E P O R T

[To accompany H. R. 5337]

The Committee on Agriculture and Forestry, to whom was referred the bill (H. R. 5337) to amend the provisions of the Perishable Agricultural Commodities Act, 1930, relating to practices in the marketing of perishable agricultural commodities, having considered the same, report thereon with a recommendation that it do pass with amendments.

This bill would strengthen enforcement of the Perishable Agricultural Commodities Act, 1930. That act, designed to suppress unfair and fraudulent practices in the marketing of perishable agricultural commodities, requires the licensing of commission merchants, dealers, and brokers engaging in the business of marketing fresh fruits and vegetables in interstate commerce and makes certain types of conduct in such business unlawful. The bill would—

(1) Eliminate the necessity of proving "fraudulent purpose" in connection with the misbranding of any perishable agricultural commodity;

(2) Make misrepresentation of the "region of origin" a violation of the Act;

(3) Authorize the Secretary of Agriculture to change the annual license fee from \$15 to any amount not in excess of \$25;

(4) Enlarge the grounds for denial of a license to permit denial, if—

(a) Any general partner, officer, or holder of more than 10 percent of the applicant's stock has engaged in any practice prohibited by the Act (now applicable to the applicant only),

(b) The applicant or any general partner, officer, or holder of more than 10 percent of the applicant's stock has been convicted of a felony in any State or Federal Court, or

(c) The applicant or any general partner, officer, or holder of more than 10 percent of the applicant's stock has within three years prior to the date of the application been adjudicated or discharge as a bankrupt, or been a general partner, officer, or holder of more than 10 percent of the stock of a bankrupt;

(5) Permit suspension or revocation (instead of revocation only) of the license of any licensee who after proper notice continues to employ in a responsible position any person whose license or whose previous firm's license has been revoked or suspended (rather than revoked only) and restrict the Secretary's authority to permit such employment after 1 year to cases in which the revocation or suspension was for failure to pay a reparation award; and

(6) Extend the record inspection provision to permit such record inspection as may be required (i) to determine the ownership, control, packer, or State, county or region of origin in connection with commodity inspection, or (ii) to ascertain whether the record keeping provisions of the Act are being complied with; and to permit inspection of any lot of any perishable agricultural commodity covered by the Act.

The committee amendments are of a technical and clarifying nature.

The amendments inserting subsection (b) in section 2 are required to maintain consistency between section 3 (b) and section 4 (a) of the act. Section 4 (a) now provides for a late fee of \$20, which is \$5 more than the \$15 fee required by section 3 (b). Since section 2 (a) would amend section 3 (b) to permit the fee provided for by it to be fixed at any amount not in excess of \$25, a corresponding change is required in section 4 (b).

The changes made in section 6 are fully described in the attached letter from the Assistant General Counsel of the Department of Agriculture.

The report of the House Committee on Agriculture is attached.

[H. Rept. No. 1196, 84th Cong., 1st sess.]

The Committee on Agriculture, to whom was referred the bill (H. R. 5337), to amend the provisions of the Perishable Agricultural Commodities Act, 1930, relating to practices in the marketing of perishable agricultural commodities, having considered the same, report favorably thereon with amendments and recommend that the bill as amended do pass.

The amendments are as follows:

Page 2, following line 2, add the following new section:

SEC. 2. Section 3 (b) of such Act (7 U. S. C., sec. 499c (b)) is amended by striking out in the third sentence the words "of \$15" and inserting "not to exceed \$25".

Page 2, line 3, change "SEC. 2" to "SEC. 3".

Page 3, line 13, strike out "shall" and insert "may".

Page 3, line 15, change "SEC. 3" to "SEC. 4".

Page 3, line 17, strike out "shall" and insert "may".

Page 4, line 5, change "SEC. 4" to "SEC. 5".

Page 5, line 1, change "SEC. 5" to "SEC. 6".

Page 5, beginning on line 3, strike out all of the first sentence through and including "given." on line 10, and insert:

The Secretary or his duly authorized agents have the right to inspect such accounts, records and memoranda of any commission merchant, dealer, or person, as may be required (1) in the investigation of complaints under this Act; or (2) to the determination of ownership, the control factors in the State, county, or region of origin in connection with the commodity inspection; or (3) to ascertain whether the provisions of this Act are being complied with and if such commission merchant shall refuse permission for inspection, the Secretary may publish the facts and circumstances or order suspended the license which the permission gives.

STATEMENT

The bill would—without broadening the scope or original intent of the Perishable Agricultural Commodities Act of 1930, as amended—correct certain deficiencies which have become apparent in the administration of the act, thereby lending greater strength and more effectiveness to the basic legislation. The bill would accomplish this end by (1) strengthening the provisions relating to misbranding or misrepresentation of grade and origin of fresh fruits and vegetables; (2) increasing the maximum annual license fee from the present \$15 per year to \$25; (3) permitting the Secretary of Agriculture to deny issuance of a license to any person convicted of a felony in any State or Federal court; (4) authorizing the Secretary to deny a license to any applicant who has been involved in bankruptcy proceedings within 3 years unless the applicant furnishes a bond or other assurance satisfactory to the Secretary; (5) empowering the Secretary to suspend the license of a person who employs in any responsible position an individual whose license is under suspension; and (6) providing authority for the inspection of any perishable commodity covered by the act.

The Perishable Agricultural Commodities Act is admittedly and intentionally a "tough" law. It was enacted in 1930 for the purpose of providing a measure of control and regulation over a branch of industry which is engaged almost exclusively in interstate commerce, which is highly competitive, and in which the opportunities for sharp practices, irresponsible business conduct, and unfair methods are numerous. The law was designed primarily for the protection of the producers of perishable agricultural products—most of whom must entrust their products to a buyer or commission merchant who may be thousands of miles away, and depend for their payment upon his business acumen and fair dealing—and for the protection of consumers who frequently have no more than the oral representation of the dealer that the product they buy is of the grade and quality they are paying for.

The law has fostered an admirable degree of dependability and fairness in this industry chiefly through the method of requiring the registration of all those who carry on an interstate business in perishable agricultural commodities and denying this registration to those whose business tactics disqualify them. It also provides the procedures and the authority with which complaints within the industry can be settled without resort to courts of law. In spite of the strictness

of some of the provisions of the law, the act and its administration by the Department of Agriculture have won the almost unanimous approval of this important food distributing industry and now have its virtually undivided support.

Hearings were held on H. R. 5337, by Mr. McIntire, and an identical bill, H. R. 5818, by Mr. Budge. At the hearings a number of representative organizations appeared in support of the bills. There were no witnesses in opposition. Among the organizations which testified in support of the bill (H. R. 5337) as reported, were the United Fresh Fruit and Vegetable Association, the Idaho Advertising Commission, the Vegetable Growers Association of America, the National Farmers Union, the International Potato Council, the International Apple Association, and the Philadelphia Terminal Marketing Association. A statement in support of the legislation was filed by the American Farm Bureau Federation.

ANALYSIS

Section 2 (5) of the Perishable Agricultural Act—as it would be amended by H. R. 5337—would, by deleting the words “for a fraudulent purpose,” dismiss the unwieldy necessity of proving the prevalence of fraud in misbranding or mislabeling in order to declare the existence of an unlawful act; evidence of bona fide misrepresentations relative to grade, quality, etc., would represent an adequate base for the declaration of illegal conduct.

Also, to the existing safeguards against perishable commodity misrepresentations relative to State or county origins, there would be added comparable protection pertaining to region of origin.

Section 4 (b) would permit the Secretary to collect a fee in excess of \$15, but not in excess of \$25. It is to be noted that the costs of administering this act are almost totally defrayed by the collection of such fees from licensees, and the broadened fee base would work toward a more efficient administration of the act.

Section 4 (d) would permit the Secretary of Agriculture to exercise discretionary powers with regard to the issuance of a license in those instances where an applicant was convicted of a felony in a State or Federal court. Prevailing law authorizes the Secretary to deny a license if he finds that the applicant is unfit to enter the business because of engaging in a practice of the character prohibited only by the act, and this amendment would perform as an added assurance that only persons of a reliable nature are encouraged to participate in trading activities under this act.

Section 4 would—through the addition of a new subsection (e)—permit the Secretary to deny a license to any applicant who has been involved in bankruptcy proceedings within 3 years unless the applicant furnished a bond or other assurance satisfactory to the Secretary. The act presently excludes bankruptcy as a basis for license denials.

Section 8 (b) would authorize the Secretary to suspend the license of a person who employs in any responsible position an individual whose license is under suspension. In effect, this would place restrictions on suspended licensees comparable to those now in effect for revocations, and it would serve to eliminate the effectiveness of dummy organizations and other such devices that might be set up to circumvent the suspension penalty.

Section 13 (a) would enable the Secretary or his duly authorized agents to inspect any lot of any perishable agricultural commodity covered by the act. Such authority would facilitate an effective inspection where there exists the suggestion of misbranding or misrepresentation.

DEPARTMENTAL VIEWS

Following is the letter from the Department of Agriculture recommending enactment of the bill with certain amendments. The amendments proposed by the Department were adopted.

MAY 25, 1955.

HON. HAROLD D. COOLEY,
Chairman, Committee on Agriculture,
House of Representatives.

DEAR CONGRESSMAN COOLEY: This is in reply to your letter of April 20, 1955, requesting a report on H. R. 5337, a bill to amend the provisions of the Perishable Agricultural Commodities Act of 1930 relating to practices in the marketing of perishable agricultural commodities.

The Department recommends passage of the bill with amendments.

The major purpose of the bill is to strengthen and to make more effective the enforcement of the Perishable Agricultural Commodities Act. The bill does not broaden the basic scope of the statute but corrects deficiencies which have become apparent in carrying out its provisions.

The bill (1) eliminates the necessity of proving "fraudulent purpose" of any licensee in connection with the misbranding of any perishable agricultural commodity, (2) provides that misrepresentation of the "region of origin" is a violation of the act, (3) authorizes the officials of the Department enforcing this act to inspect any perishable agricultural commodity in the possession of, or under the control of, any licensee under the act, (4) authorizes the Secretary to suspend the license of any licensee for a period of up to 90 days, if inspection of the produce is refused, (5) authorizes the Secretary to deny a license to any applicant convicted of a felony in any State or Federal court, (6) authorizes the Secretary to deny a license to any applicant who has within 3 years prior to the date of the application been involved in bankruptcy proceedings unless the applicant furnishes a bond or other assurance satisfactory to the Secretary, and (7) permits the Secretary to suspend or revoke the license of any licensee who, after a proper notice, continues to employ in a responsible position any person whose license is under suspension. Such employment could be permitted by the Secretary after 1 year, if the suspension was for failure to pay a reparation award, upon the filing of a bond or assurance satisfactory to the Secretary.

Growers, shippers, and buyers are concerned about the existing extent of misbranding and misrepresentation of grade and origin of fresh fruits and vegetables. Although the proposed amendments to the Perishable Agricultural Commodities Act would not correct all malpractices in this field, they would provide significant help. Effective control of misbranding and misrepresentation of fruits and vegetables is difficult under the present statute because no authority is granted to inspect produce in the possession or control of a licensee to determine if it is misbranded unless the licensee requests or grants

permission for such inspection. Also, substantial evidence must be produced that the misbranding was done deliberately with the definite intention of defrauding the buyer in order to prove that a fraudulent purpose is involved. The proposed amendments undoubtedly would expedite enforcement of the misbranding provisions of the act and provide for more effective action against licensees who violate these provisions.

The purpose of the other amendments relating to felonies and bankrupts is to eliminate from the produce business many potential troublemakers of the type who are constantly involved in disciplinary actions or reparation awards. Prohibition of the employment in a responsible position of a person whose license has been suspended is primarily for the purpose of preventing such a person from avoiding the suspension period by operating through a dummy organization. This change results in the same provisions concerning employment in a responsible position being applied to persons whose licenses are under suspension as the act now provides for persons whose licenses have been revoked.

Some questions have been raised by industry representatives concerning the scope of the authority given to the Secretary in the revision of section 13 (a) relating to the inspection of accounts and records. These representatives have recommended that this authority be delineated and clarified by insertion of the following words after "broker" on page 5, line 5, of the bill: "as may be material (1) in the investigation of complaints under this Act, or (2) to the determination of ownership, control, packer or State, county, or region of origin in connection with commodity inspections, or (3) to ascertain whether section 9 of this Act is being complied with,". We believe that the Department can carry out its responsibilities effectively within the limitations established by this proposed revision and, therefore, we are agreeable to this change in the bill.

Administration of this act, except for the cost of legal services, is financed exclusively from the license fees which are now fixed by the statute at \$15 per year. It will be necessary to increase the relatively small staff now engaged in administering the Perishable Agricultural Commodities Act and the number of attorneys assigned to this activity in order for the Department to conduct an expeditious and effective enforcement of the misbranding provisions. Curtailment of misbranding is not feasible by relying largely on complaints prior to investigation and requires that steps be taken to check the operations of shipping-point packers and terminal-market repackers. Where violations are uncovered proceedings under the formal hearings requirements of the Administrative Procedure Act must be held.

Therefore, unless provision is made for increasing the revenue under the act, it will not be possible for the Department to render the service which the industry has in mind. It is recommended that the act be amended to provide that an annual fee of not to exceed \$25 may be fixed by the Secretary. It is believed that this provision would be preferable to establishing a specific fee and should give the Department sufficient latitude to be able to realize enough revenue to carry out the foreseeable costs of administering this act, with the exception of additional expenses for legal services for which additional appropriations of about \$25,000 annually would be needed. In order to make this revision, it would be necessary to insert after the word

"fee" in the third sentence of section 3 (b) the words "to be fixed by the Secretary but not to exceed \$25," in lieu of the words "of \$15", and after the word "paying" in the last clause of section 4 (a) to insert the words "the fee provided in section 3 (b) of this Act plus \$5," in lieu of the words "a fee of \$20."

The Bureau of the Budget advises that there is no objection to the submission of this report.

Sincerely yours,

TRUE D. MORSE,
Acting Secretary.

LETTER FROM ASSISTANT GENERAL COUNSEL

SEPTEMBER 7, 1955.

Mr. COTYS M. MOUSER,
*Clerk, Senate Committee on Agriculture and Forestry,
United States Senate.*

DEAR SIR: Pursuant to a telephone conversation with the acting clerk of your committee, I am writing to call to your attention certain language in H. R. 5337 which should be corrected.

The bill introduced in the House by Mr. McIntire, H. R. 5337, contained as section 5 an amendment of section 13 (a) of the Perishable Agricultural Commodities Act, 1930. The first sentence of that proposed amendment was worded as follows:

"The Secretary or his duly authorized agents shall have the right to inspect all accounts, records, and memoranda of any commission merchant, dealer, or broker, and if any such commission merchant, dealer, or broker refuses to permit such inspection, the Secretary may publish the facts and circumstances and/or, by order, suspend the license of the offender until permission to make such inspection is given."

We understand there was some opposition to the wording of this provision and that, after considerable discussion by interested groups, an amendment was worked out to meet the objections that had been raised. In testifying before the Subcommittee on Domestic Marketing of the House Committee on Agriculture on May 26, 1955, Mr. C. W. Kitchen, executive vice president of the United Fresh Fruit & Vegetable Association, recommended the following as a substitute for the first sentence (quoted above) of the amendment proposed by section 5 of H. R. 5337:

"The Secretary or his duly authorized agents shall have the right to inspect such accounts, records, and memoranda of any commission merchant, dealer, or broker as may be material (1) in the investigation of complaints under this act, or (2) to the determination of ownership, control, packer, or State, country, or region of origin in connection with commodity inspections, or (3) to ascertain whether section 9 of this act is being complied with, and if any such commission merchant, dealer, or broker refuses to permit such inspection, the Secretary may publish the facts and circumstances and/or, by order, suspend the license of the offender until permission to make such inspection is given."

This appears at page 21 of the subcommittee hearings. Other testimony on this provision appears at pages 8, 33, 35, 49, 51, 52, and 53.

In reporting out the bill (Rept. No. 1196), the House Committee on Agriculture changed the language suggested by Mr. Kitchen in a number of material respects. The bill as passed by the House is now pending in your committee.

The sentence in question, which appears on page 5 of the Senate print of H. R. 5337, lines 6 to 17, as it is now worded, is defective in several respects and will not confer the authorization intended to be conferred. For example: the word "person" in line 8 should be "broker", because the act regulates "commission merchants, dealers, and brokers"; in line 9 the word "required" should be "material", because there is no requirement that records be inspected but it is intended that only records material to the investigation of complaints, etc., be inspected; in line 12 "the commodity inspection" should be "commodity inspections"; in line 14 "commission merchant" should be "commission merchant, dealer, or broker", because the penalties for refusing to permit inspection are intended to apply to dealers and brokers as well as to commission merchants; and, in lines 16 and 17, the words "or order suspended the license which the permission gives", which we do not understand, should be changed to "and/or, by order, suspend the license of the offender until permission to make such inspection is given."

The simplest way to correct this sentence is to take the amendment suggested by Mr. Kitchen at page 21 of the House hearings and substitute it for the present language of lines 6 to 17 on page 5 of the bill.

If we can be of any assistance to you in connection with this matter, please feel free to call upon us.

Sincerely yours,

CHARLES W. BUCY,
Assistant General Counsel.

CHANGES IN EXISTING LAW

In compliance with subsection (4) of rule XXIX, of the Standing Rules of the Senate, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in *italic*, existing law in which no change is proposed is shown in *roman*):

PERISHABLE AGRICULTURAL COMMODITIES ACT, 1930

AN ACT To suppress unfair and fraudulent practices in the marketing of perishable agricultural commodities in interstate and foreign commerce

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, * * **

SEC. 2. It shall be unlawful in or in connection with any transaction in interstate or foreign commerce—

* * * * *

(5) For any commission merchant, dealer, or broker [, for a fraudulent purpose,] to misrepresent by word, act, mark, stencil, label, statement, or deed, the character, kind, grade, quality, quantity, size, pack, weight, condition, degree of maturity, or State [or coun-

try], country, or region of origin of any perishable agricultural commodity received, shipped, sold, or offered to be sold in interstate or foreign commerce;

* * * * *

SEC. 3. * * *

(b) Any person desiring any such license shall make application to the Secretary. The Secretary may by regulation prescribe the information to be contained in such application. Upon the filing of the application, and annually thereafter, the applicant shall pay a fee [of \$15,] *not to exceed* \$25, which shall be deposited in the Treasury of the United States as a special fund, without fiscal year limitations, to be designated as the "Perishable Agricultural Commodities Act fund", which shall be available for all expenses necessary to the administration of the Act, the Act to prevent the destruction or dumping of farm produce, approved March 3, 1927 (7 U. S. C. 491-497), and the Export Apple and Pear Act, approved June 10, 1933 (7 U. S. C. 581-589): *Provided*, That financial statements prescribed by the Director of the Bureau of the Budget for the last completed fiscal year, and as estimated for the current and ensuing fiscal years, shall be included in the budget as submitted to the Congress annually.

* * * * *

SEC. 4 (a) Whenever an applicant has paid the prescribed fee the Secretary, except as provided elsewhere in this Act, shall issue to such applicant a license, which shall entitle the licensee to do business as a commission merchant and/or dealer and/or broker unless and until it is suspended or revoked by the Secretary in accordance with the provisions of this Act, or is automatically suspended under section 7 (d) of this Act, but said license shall automatically terminate on any anniversary date thereof unless the annual fee has been paid: *Provided*, That notice of the necessity of paying the annual fee shall be mailed at least thirty days before the anniversary date: *Provided further*, That if the annual fee is not paid by the anniversary date the licensee may obtain a renewal of that license at any time within thirty days by paying [a fee of \$20] *the fee provided in section 3 (b), plus \$5*, which shall be deposited in the Perishable Agricultural Commodities Act fund provided for by section 3 (b).

* * * * *

(d) The Secretary may withhold the issuance of a license to an applicant, for a period not to exceed thirty days pending an investigation, for the purpose of determining (a) whether the applicant is unfit to engage in the business of a commission merchant, dealer, or broker [by reason of having] *because the applicant, or in case the applicant is a partnership, any general partner, or in case the applicant is a corporation, any officer or holder of more than 10 per centum of the stock, prior to the date of the filing of the application engaged in any practice of the character prohibited by this Act or was convicted of a felony in any State or Federal court, or (b) whether the application contains any materially false or misleading statement or involves any misrepresentation, concealment, or withholding of facts respecting any violation of the Act by any officer, agent, or employee of the applicant. If after investigation the Secretary believes that the ap-*

plicant should be refused a license, the applicant shall be given an opportunity for hearing within sixty days from the date of the application to show cause why the license should not be refused. If after the hearing the Secretary finds that the applicant is unfit to engage in the business of a commission merchant, dealer, or broker [by reason of having] *because the applicant, or in case the applicant is a partnership, any general partner, or in case the applicant is a corporation, any officer or holder of more than 10 per centum of the stock, prior to the date of the filing of the application engaged in any practice of the character prohibited by this Act or was convicted of a felony in any State or Federal court, or because the application contains a materially false or misleading statement made by the applicant or by its representative on its behalf, or involves a misrepresentation, concealment, or withholding of facts respecting any violation of the Act by any officer, agent, or employee, the Secretary [shall] may refuse to issue a license to the applicant.*

(e) *The Secretary may refuse to issue a license to an applicant if he finds that the applicant, or in case the applicant is a partnership, any general partner, or in case the applicant is a corporation, any officer or holder of more than 10 per centum of the stock, has, within three years prior to the date of the application, been adjudicated or discharged as a bankrupt, or was a general partner of a partnership or officer or holder of more than 10 per centum of the stock of a corporation adjudicated or discharged as a bankrupt, unless the applicant furnishes a bond of such nature and amount as may be determined by the Secretary or other assurance satisfactory to the Secretary that the business of the applicant will be conducted in accordance with this Act.*

SEC. 8. * * *

(b) The Secretary may, after thirty days' notice and an opportunity for a hearing, *suspend or revoke the license of any commission merchant, dealer, or broker who, after the date given in such notice, continues to employ in any responsible position any individual whose license [was revoked] has been revoked or is under suspension or who was responsibly connected with any firm, partnership, association, or corporation whose license has been revoked or is under suspension. Employment of [such individual by a licensee in any responsible position after one year following the revocation of any such license shall be conditioned] an individual whose license has been revoked or is under suspension for failure to pay a reparation award or who was responsibly connected with any firm, partnership, association, or corporation whose license has been revoked or is under suspension for failure to pay a reparation award after one year following the revocation or suspension of any such license may be permitted by the Secretary upon the filing by the employing licensee of a bond, [in such reasonable sum as may be fixed] of such nature and amount as may be determined by the Secretary, or other assurance satisfactory to the Secretary that its business will be conducted in accordance with the provisions of this Act;*

* * * * *

SEC. 13. (a) [In the investigation of complaints under this Act, the] *The Secretary or his duly authorized agents shall have the right to inspect such accounts, records, and memoranda of any commission merchant, dealer, or broker as may be material [for the determina-*

tion of any such complaint. If (1) in the investigation of complaints under this act, or (2) to the determination of ownership, control, packer, or State, country, or region of origin in connection with commodity inspections, or (3) to ascertain whether section 9 of this act is being complied with, and if any such commission merchant, dealer, or broker refuses to permit such inspection, the Secretary may publish the facts and circumstances and/or, by order, suspend the license of the offender until permission to make such inspection is given. The Secretary or his duly authorized agents shall have the right to inspect any lot of any perishable agricultural commodity covered by this Act, and if any commission merchant, dealer, or broker having ownership of or control over such lot fails or refuses to authorize or allow such inspection, the Secretary may, after thirty days' notice and an opportunity for a hearing, publish the facts and circumstances and/or, by order, suspend the license of the offender for a period not to exceed ninety days.

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Calendar No. 2544

84TH CONGRESS
2D SESSION

H. R. 5337

[Report No. 2507]

IN THE SENATE OF THE UNITED STATES

AUGUST 1, 1955

Read twice and referred to the Committee on Agriculture and Forestry

JULY 11, 1956

Reported by Mr. ELLENDER, with amendments

[Omit the part struck through and insert the part printed in italic]

AN ACT

To amend the provisions of the Perishable Agricultural Commodities Act, 1930, relating to practices in the marketing of perishable agricultural commodities.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*
3 That section 2 (5) of the Perishable Agricultural Commodi-
4 ties Act, 1930 (7 U. S. C., sec. 499b (5)), is amended to
5 read as follows:

6 “(5) For any commission merchant, dealer, or broker to
7 misrepresent by word, act, mark, stencil, label, statement,
8 or deed, the character, kind, grade, quality, quantity, size,
9 pack, weight, condition, degree of maturity, or State, coun-
10 try, or region of origin of any perishable agricultural com-

1 modity received, shipped, sold, or offered to be sold in inter-
2 state or foreign commerce;”.

3 SEC. 2. (a) Section 3 (b) of such Act (7 U. S. C.,
4 sec. 499c (b)) is amended by striking out in the third
5 sentence the words “of \$15” and inserting “not to exceed
6 \$25”.

7 (b) The last proviso of section 4 (a) of such Act
8 (7 U. S. C., sec. 499d (a)) is amended by striking out
9 “a fee of \$20” and inserting “the fee provided in section 3
10 (b) , plus \$5”.

11 SEC. 3. Section 4 (d) of such Act (7 U. S. C., sec.
12 499d (d)) is amended to read as follows:

13 “(d) The Secretary may withhold the issuance of a
14 license to an applicant, for a period not to exceed thirty
15 days pending an investigation, for the purpose of deter-
16 mining (a) whether the applicant is unfit to engage in the
17 business of a commission merchant, dealer, or broker because
18 the applicant, or in case the applicant is a partnership, any
19 general partner, or in case the applicant is a corporation,
20 any officer or holder of more than 10 per centum of the
21 stock, prior to the date of the filing of the application
22 engaged in any practice of the character prohibited by this
23 Act or was convicted of a felony in any State or Federal
24 court, or (b) whether the application contains any ma-
25 terially false or misleading statement or involves any mis-

1 representation, concealment, or withholding of facts re-
2 specting any violation of the Act by any officer, agent, or
3 employee of the applicant. If after investigation the Secre-
4 tary believes that the applicant should be refused a license,
5 the applicant shall be given an opportunity for hearing
6 within sixty days from the date of the application to show
7 cause why the license should not be refused. If after the
8 hearing the Secretary finds that the applicant is unfit to
9 engage in the business of a commission merchant, dealer,
10 or broker because the applicant, or in case the applicant is
11 a partnership, any general partner, or in case the applicant
12 is a corporation, any officer or holder of more than 10
13 per centum of the stock, prior to the date of the filing of the
14 application engaged in any practice of the character pro-
15 hibited by this Act or was convicted of a felony in any
16 State or Federal court, or because the application contains
17 a materially false or misleading statement made by the
18 applicant or by its representative on its behalf, or involves
19 a misrepresentation, concealment, or withholding of facts
20 respecting any violation of the Act by any officer, agent,
21 or employee, the Secretary may refuse to issue a license to
22 the applicant.”

23 SEC. 4. Section 4 of such Act is further amended by
24 adding at the end thereof the following subsection:

25 “(c) The Secretary may refuse to issue a license to

1 an applicant if he finds that the applicant, or in case the
2 applicant is a partnership, any general partner, or in case the
3 applicant is a corporation, any officer or holder of more than
4 10 per centum of the stock, has, within three years prior
5 to the date of the application, been adjudicated or discharged
6 as a bankrupt, or was a general partner of a partnership or
7 officer or holder of more than 10 per centum of the stock of
8 a corporation adjudicated or discharged as a bankrupt, unless
9 the applicant furnishes a bond of such nature and amount
10 as may be determined by the Secretary or other assurance
11 satisfactory to the Secretary that the business of the applicant
12 will be conducted in accordance with this Act.”

13 SEC. 5. Section 8 (b) of such Act (7 U. S. C., sec.
14 499h (b)) is amended to read as follows:

15 “(b) The Secretary may, after thirty days’ notice and
16 an opportunity for a hearing, suspend or revoke the license
17 of any commission merchant, dealer, or broker who, after the
18 date given in such notice, continues to employ in any respon-
19 sible position any individual whose license has been revoked
20 or is under suspension or who was responsibly connected
21 with any firm, partnership, association, or corporation whose
22 license has been revoked or is under suspension. Employ-
23 ment of an individual whose license has been revoked or is
24 under suspension for failure to pay a reparation award or who
25 was responsibly connected with any firm, partnership, asso-

1 ciation, or corporation whose license has been revoked or is
 2 under suspension for failure to pay a reparation award after
 3 one year following the revocation or suspension of any such
 4 license may be permitted by the Secretary upon the filing
 5 by the employing licensee of a bond, of such nature and
 6 amount as may be determined by the Secretary, or other
 7 assurance satisfactory to the Secretary that its business will
 8 be conducted in accordance with the provisions of this Act;”.

9 SEC. 6. Section 13 (a) of such Act (7 U. S. C., sec.
 10 499m (a)) is amended to read as follows:

11 “(a) The Secretary or his duly authorized agents shall
 12 have the right to inspect such accounts, records, and mem-
 13 oranda of any commission merchant, dealer, or person, as
 14 may be required ~~(1)~~ in the investigation of complaints
 15 under this Act; or ~~(2)~~ to the determination of ownership,
 16 control, packer, or state, country, or region of origin in
 17 connection with the commodity inspection; or ~~(3)~~ to ascer-
 18 tain whether Section 9 of this Act is being complied with
 19 and if such commission merchant shall refuse permission for
 20 inspection, the Secretary may publish the facts and circum-
 21 stances or order suspended the license which the permission
 22 gives *The Secretary or his duly authorized agents shall have*
 23 *the right to inspect such accounts, records, and memoranda*
 24 *of any commission merchant, dealer, or broker as may be*
 25 *material (1) in the investigation of complaints under this*

1 *Act, or (2) to the determination of ownership, control,*
2 *packer, or State, country, or region of origin in connection*
3 *with commodity inspections, or (3) to ascertain whether sec-*
4 *tion 9 of this Act is being complied with, and if any such*
5 *commission merchant, dealer, or broker refuses to permit such*
6 *inspection, the Secretary may publish the facts and circum-*
7 *stances and/or, by order, suspend the license of the offender*
8 *until permission to make such inspection is given. The Sec-*
9 *retary or his duly authorized agents shall have the right to*
10 *inspect any lot of any perishable agricultural commodity*
11 *covered by this Act, and if any commission merchant, dealer,*
12 *or broker having ownership of or control over such lot fails*
13 *or refuses to authorize or allow such inspection, the Secretary*
14 *may, after thirty days' notice and an opportunity for a hear-*
15 *ing, publish the facts and circumstances and/or, by order,*
16 *suspend the license of the offender for a period not to exceed*
17 *ninety days."*

Passed the House of Representatives July 30, 1955.

Attest:

RALPH R. ROBERTS,

Clerk.

AN ACT

To amend the provisions of the Perishable Agricultural Commodities Act, 1930, relating to practices in the marketing of perishable agricultural commodities.

AUGUST 1, 1955

Read twice and referred to the Committee on
Agriculture and Forestry

JULY 11, 1956

Reported with amendments

July 13, 1956

SENATE

14. COTTON FUTURES. Passed without amendment H. R. 9333, to give to certain consuming processors of cotton the privilege of buying cotton futures contracts in certain cases. This bill will now be sent to the President. p. 11439
15. RESEARCH. Passed as reported S. 3832, to provide for the disposal of the Government-owned synthetic rubber research laboratories at Akron, Ohio. p. 11439
16. EXPORT-IMPORT BANK. Passed as reported S. 3868, to extend until June 30, 1963, the Export-Import Bank Act of 1945. p. 11439
17. MARKETING. Passed as reported H. R. 5337, to broaden the provisions of law relating to practices in the marketing of perishable agricultural commodities. p. 11440
18. WATERSHEDS. Passed without amendment H. R. 11873, to decrease the Congressional review period of projects under the Watershed Protection and Flood Prevention Act from 45 to 15 days. This bill will now be sent to the President. p. 11440
19. MINING. Passed as reported S. 3941, relating to certain mining claims which were eligible for validation under the act of August 12, 1953, but which were not validated solely because of the failure of the owners to take certain action to protect their claims within the prescribed period. p. 11440
Passed without amendment H. R. 6501, to permit the disposal of certain reserve mineral deposits under the mining laws of the U. S. This bill will now be sent to the President. p. 11442
20. LEGAL OFFICERS. Passed as reported S. 4076, to provide for the appointment of the chief legal officers of certain departments (including this Department) in the executive branch by the President, by and with the consent of the Senate. p. 11442
21. SECURITY. Passed without amendment S. J. Res. 182, to extend the time for filing the report of the Commission on Government Security to June 30, 1957. p. 11442
22. WHEAT. Both Houses received from this Department proposed legislation to amend the International Wheat Agreement Act of 1949, so as to extend the authority contained in that act for the purpose of implementing the Agreement of 1956; to Senate Committee on Agriculture and Forestry, and House Banking and Currency Committee. pp. 11427, 11595
3. POTATOES. Sen. Langer inserted a Potato Growers Assoc. resolution favoring legislation for the grading and inspection of potatoes entering market channels. p. 11427
4. PERSONNEL. The Post Office and Civil Service Committee reported with amendments S. 3465, relating to effective dates of increases in compensation granted to wage board employees (S. Rept. 2573). p. 11429
5. THE AGRICULTURE AND FORESTRY COMMITTEE reported the following bills:
S. 4058, without amendment, to authorize the Secretary of Agriculture to extend and renew to Chicago, Milwaukee, St. Paul & Pacific Railroad Co. for the term of 10 years a lease of a tract of land in the USDA Range Livestock Experiment Station in Mont. (S. Rept. 2575). p. 11429

- H. R. 11375, without amendment, to further extend the special school milk program to certain institutions for the care and training of children whether or not underprivileged (S. Rept. 2576). p. 11429
- S. J. Res. 179, without amendment, to authorize and direct the Secretary of Agriculture to quitclaim certain property in Coahoma Co., Miss., to the Home Demonstration Club, of Rena Lara, Miss., Inc. (S. Rept. 2574). p. 11430
26. LIVESTOCK SLAUGHTER. The Agriculture and Forestry Committee ordered reported with amendment S. 1636, to require the use of humane methods in the slaughter of livestock and poultry in interstate or foreign commerce. The "Daily Digest" states that it was "amended so that the bill would provide only for establishment of an advisory committee on humane slaughtering which would report to the Congress within 2 years". p. D796
27. APPROPRIATIONS; MUTUAL SECURITY. The Appropriations Committee/ordered reported with amendment H. R. 12130, the Mutual Security appropriation bill for 1957. The "Daily Digest" states that "as approved, the bill would provide a total of \$4,105,420,000, an increase of \$680,300,000 over the House-passed figure of \$3,425,120,000". p. D796
28. LIVESTOCK. Sen. Johnson spoke on the continuing/drought situation, and urged this Department to make feed available at cost to livestock producers. p. 11434
29. EXECUTIVE PAY. Sen. Smith, N. J., inserted a newspaper editorial supporting Hoover Commission recommendations for an increase in the pay of Federal executives. p. 11434
30. ROADS. Sen. Johnson commented on the effects of the road building program on the Nation's economy. p. 11473
31. RECLAMATION. Agreed to the conference report on S. 1622, to authorize the Secretary of the Interior to make payments for certain improvements located on public lands in the Rapid Valley unit, S. Dak., of the Missouri River Basin project (House agreed to the report on July 12, 1956). This bill will now be sent to the President. p. 11474
32. FOREIGN AFFAIRS. Sen. Humphrey discussed various aspects of our foreign policy and foreign aid programs. p. 11478
33. COTTON. Sen. Payne inserted a release of this Department stating that cotton products export aid will be extended through equalization payments. p. 11494
34. ELECTRIFICATION. Sen. Neuberger and others discussed the construction of the Hells Canyon dam. p. 11501
Sen. Watkins and others spoke on the Federal contribution to water resource development in the Pacific Northwest. p. 11508
35. CREDIT. Sen. Humphrey criticized the Administration's credit policies. p. 11512
36. THE INTERIOR AND INSULAR AFFAIRS COMMITTEE ordered the following bill reported:
H. R. 8226, without amendment, to reserve certain lands in Alaska for public-school purposes. p. D796
H. R. 7887, without amendment, to authorize the Commissioner of Public Lands to sell public lands under certain circumstances without public auction. p. D796

discrimination which negates the theory of equality.

One need not agree at all with the reasons given for such discriminations—indeed, one may be offended by their practice. But if we are to rely on theory, there is as much right to discrimination as there is to non-discrimination. It is really the misguided attempt to override these separate and distinct rights of the individual by public law that causes the conflict of today.

Conformity by coercion is not liberalism. The answer is to be found in voluntarism—freedom's greatest vehicle of progress. It offers us the only solution to the vexatious problems of sociology in our republic.

DISPOSAL OF SYNTHETIC RUBBER RESEARCH LABORATORIES AT AKRON, OHIO

Mr. JOHNSON of Texas. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 2523, S. 3832.

The PRESIDENT pro tempore. The bill will be stated by title for the information of the Senate.

The CHIEF CLERK. A bill (S. 3832) to provide for the disposal of the Government-owned synthetic rubber research laboratories at Akron, Ohio.

The PRESIDENT pro tempore. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Banking and Currency, with an amendment, on page 1, line 10, after the word "agency", to insert "the Administrator of General Services, before he offers the laboratories to the public for sale, shall ascertain what the value of the laboratories would be to Government agencies which would make substantial use thereof, and the Administrator shall not sell the laboratories to the public unless he finds, after consultation with the Director of the Budget Bureau, that such sale to the public would be in the best interests of the United States, taking into consideration among other relevant factors the value of the laboratories to any interested agency and the amounts offered by public bidders.", so as to make the bill read:

Be it enacted, etc., That the Government laboratories at Akron, Ohio, now under control of the National Science Foundation are hereby transferred to the General Services Administration for disposal in accordance with the Federal Property and Administrative Services Act of 1949, except that the Administrator of General Services shall first offer the laboratories for public sale before seeking to dispose of them by transfer or assignment to any Federal agency. The Administrator of General Services, before he offers the laboratories to the public for sale, shall ascertain what the value of the laboratories would be to Government agencies which would make substantial use thereof, and the Administrator shall not sell the laboratories to the public unless he finds, after consultation with the Director of the Budget Bureau, that such sale to the public would be in the best interests of the United States, taking into consideration among other relevant factors the value of the laboratories to any interested agency and the amounts offered by public bidders. The National Science Foundation is authorized to reimburse the General Services Administration in advance for expenses necessary for the

protection and maintenance of the laboratories up to June 30, 1957.

Mr. JOHNSON of Texas. Mr. President, the bill would transfer the Government-owned synthetic-rubber research laboratories at Akron, Ohio, to the General Services Administration for disposal, first by sale to the public and, in default of such sale, by transfer to any interested Federal agency. It would authorize the National Science Foundation to reimburse General Services Administration in advance for its expenses in connection with the laboratories up to June 30, 1957.

The committee amendment would direct the General Services Administration to ascertain the value of the laboratories to interested Federal agencies, and would prohibit a sale to the public at less than this value.

The PRESIDENT pro tempore. The question is on agreeing to the committee amendment.

The amendment was agreed to.

The PRESIDENT pro tempore. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on the engrossment and third reading of the bill.

The bill (S. 3832) was ordered to be engrossed for a third reading, read the third time, and passed.

EXTENSION OF EXPORT-IMPORT BANK ACT OF 1945

Mr. JOHNSON of Texas. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 2524, Senate bill 3868.

The PRESIDENT pro tempore. The bill will be stated by title for the information of the Senate.

The LEGISLATIVE CLERK. A bill (S. 3868) to extend the Export-Import Bank Act of 1945, as amended.

The PRESIDENT pro tempore. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Banking and Currency with an amendment on page 1, after line 6, to insert:

Sec. 2. Section 10 of said act, as amended, is amended by—

(1) inserting "(a)" after "Sec. 10.", and

(2) adding at the end thereof a new subsection as follows:

"(b) Beginning on July 1, 1956, the Export-Import Bank of Washington shall contribute to the civil-service retirement and disability fund, on the basis of annual billings as determined by the Civil Service Commission, for the Government's share of the cost of the civil-service retirement system applicable to the employees of the Export-Import Bank of Washington and their beneficiaries. Beginning on July 1, 1956, the Export-Import Bank of Washington shall also contribute to the employees' compensation fund, on the basis of annual billings as determined by the Secretary of Labor, for the benefit payments made from such fund on account of the employees of the Export-Import Bank of Washington. The annual billings shall also include a statement of the fair portion of the cost of the administration of the respective funds, which shall be paid by the Export-Import Bank of

Washington into the Treasury as miscellaneous receipts."

So as to make the bill read:

Be it enacted etc., That section 8 of the Export-Import Bank Act of 1945, as amended (12 U. S. C. 635f), is amended by striking out "June 30, 1958" and inserting in lieu thereof "June 30, 1963."

Sec. 2. Section 10 of said act, as amended, is amended by—

(1) inserting "(a)" after "Sec. 10.", and

(2) adding at the end thereof a new subsection as follows:

"(b) Beginning on July 1, 1956, the Export-Import Bank of Washington shall contribute to the civil-service retirement and disability fund, on the basis of annual billings as determined by the Civil Service Commission, for the Government's share of the cost of the civil-service retirement system applicable to the employees of the Export-Import Bank of Washington and their beneficiaries. Beginning on July 1, 1956, the Export-Import Bank of Washington shall also contribute to the employees' compensation fund, on the basis of annual billings as determined by the Secretary of Labor, for the benefit payments made from such fund on account of the employees of the Export-Import Bank of Washington. The annual billings shall also include a statement of the fair portion of the cost of the administration of the respective funds, which shall be paid by the Export-Import Bank of Washington into the Treasury as miscellaneous receipts."

Mr. JOHNSON of Texas. Mr. President, the bill was introduced by the distinguished chairman of the Committee on Banking and Currency [Mr. FULLBRIGHT] for himself and the ranking minority member of that committee, the distinguished Senator from Indiana [Mr. CAPEHART]. The bill would extend the life of the Export-Import Bank Act of 1945, as amended, for an additional 5 years beyond June 30, 1958, or to the close of business on June 30, 1963. In this respect, it follows the pattern of the act of October 3, 1951, which extended the life of the bank for 5 years at a time when the then termination date was 2 years distant.

The PRESIDENT pro tempore. The question is on agreeing to the committee amendment.

The amendment was agreed to.

The PRESIDENT pro tempore. The bill is open to further amendment. If there be no further amendment to be proposed the question is on the engrossment and third reading of the bill.

The bill (S. 3868) was ordered to be engrossed for a third reading, read the third time, and passed.

The title was amended, so as to read: "A bill to extend the Export-Import Bank Act of 1945, as amended, and for other purposes."

AMENDMENT OF COMMODITY EXCHANGE ACT

Mr. JOHNSON of Texas. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 2543, H. R. 9333.

The PRESIDENT pro tempore. The bill will be stated by title for the information of the Senate.

The LEGISLATIVE CLERK. A bill (H. R. 9333) to amend the Commodity Exchange Act to provide for hedging an-

ticipated requirements of processors and manufacturers.

The PRESIDENT pro tempore. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. JOHNSON of Texas. Mr. President, under the present requirements of the Commodity Exchange Act, purchases of commodity futures may be classified as bona fide hedging only if offset by fixed-price sale commitments. This amendment to the act will permit processors and manufacturers to carry on hedging operations against all or a part of their anticipated requirements, as explained fully in the House report.

There is also a very favorable report from the Department of Agriculture, recommending the approval of the bill.

The PRESIDENT pro tempore. The bill is open to amendment. If there be no amendment to be proposed, the question is on the third reading of the bill.

The bill (H. R. 9333) was ordered to a third reading, read the third time and passed.

PRACTICES IN THE MARKETING OF PERISHABLE AGRICULTURAL COMMODITIES

Mr. JOHNSON of Texas. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 2545, H. R. 5337.

The PRESIDENT pro tempore. The bill will be stated by title for the information of the Senate.

The LEGISLATIVE CLERK. A bill (H. R. 5337) to amend the provisions of the Perishable Agricultural Commodities Act of 1930, relating to practices in the marketing of perishable agricultural commodities.

The PRESIDENT pro tempore. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill which had been reported from the Committee on Agriculture and Forestry with amendments, on page 2, line 3, after the numeral "2", to insert "(a)"; after line 6, to insert:

(b) The last proviso of section 4 (a) of such act (7 U. S. C., sec. 499d (a)) is amended by striking out "a fee of \$20" and inserting "the fee provided in section 3 (b), plus \$5."

And on page 5, line 11, after "(a)", to strike out:

The Secretary or his duly authorized agents shall have the right to inspect such accounts, records, and memoranda of any commission merchant, dealer, or person, as may be required (1) in the investigation of complaints under this act; or (2) to the determination of ownership, control, packer, or State, country, or region of origin in connection with the commodity inspection; or (3) to ascertain whether section 9 of this act is being complied with and if such commission merchant shall refuse permission for inspection, the Secretary may publish the facts and circumstances or order suspended the license which the permission gives.

And, in lieu thereof, to insert:

The Secretary or his duly authorized agents shall have the right to inspect such

accounts, records, and memoranda of any commission merchant, dealer, or broker as may be material (1) in the investigation of complaints under this act, or (2) to the determination of ownership, control, packer, or State, country, or region of origin in connection with commodity inspections, or (3) to ascertain whether section 9 of this act is being complied with, and if any such commission merchant, dealer, or broker refuses to permit such inspection, the Secretary may publish the facts and circumstances and/or, by order, suspend the license of the offender until permission to make such inspection is given.

Mr. JOHNSON of Texas. Mr. President, the bill would—without broadening the scope or original intent of the Perishable Agricultural Commodities Act of 1930, as amended—correct certain deficiencies which have become apparent in the administration of the act, thereby lending greater strength and more effectiveness to the basic legislation. The bill would accomplish this end by, first, strengthening the provisions relating to misbranding or misrepresentation of grade and origin of fresh fruits and vegetables; second, increasing the maximum annual license fee from the present \$15 per year to \$25; third, permitting the Secretary of Agriculture to deny issuance of a license to any person convicted of a felony in any State or Federal court; fourth, authorizing the Secretary to deny a license to any applicant who has been involved in bankruptcy proceedings within 3 years unless the applicant furnishes a bond or other assurance satisfactory to the Secretary; fifth, empowering the Secretary to suspend the license of a person who employs in any responsible position an individual whose license is under suspension; and, sixth, providing authority for the inspection of any perishable commodity covered by the act.

The PRESIDENT pro tempore. The question is on agreeing to the committee amendments.

The amendments were agreed to.

The PRESIDENT pro tempore. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on the engrossment of the amendments and third reading of the bill.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill (H. R. 5337) was read the third time and passed.

AMENDMENT OF WATERSHED PROTECTION AND FLOOD PREVENTION ACT

Mr. JOHNSON of Texas. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 2546, H. R. 11873.

The PRESIDENT pro tempore. The bill will be stated by title for the information of the Senate.

The LEGISLATIVE CLERK. A bill (H. R. 11873) to amend the Watershed Protection and Flood Prevention Act so as to eliminate delay in the start of projects.

The PRESIDENT pro tempore. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. JOHNSON of Texas. President, experience with the handling of the projects thus far submitted indicates quite clearly that the interval of 45 days provided in the act for congressional review is unnecessarily long. Not only does this requirement normally hold up the start of projects longer than necessary, but because of the provision that only days during a session of Congress are to be counted, may delay the start of such a project unnecessarily from one session of Congress to another.

This bill will shorten the review period from 45 days to 15 days and thus eliminate a substantial delay, while still maintaining the principle of and opportunity for congressional review of each individual project.

The Department of Agriculture has no objection to the bill, and the Bureau of the Budget has offered no objection.

The PRESIDENT pro tempore. The bill is open to amendment. If there be no amendment to be proposed, the question is on the third reading of the bill.

The bill (H. R. 11873) was ordered to a third reading, read the third time, and passed.

VALIDATION OF CERTAIN MINING CLAIMS

Mr. JOHNSON of Texas. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 2559, S. 3941.

The PRESIDENT pro tempore. The bill will be stated by title for the information of the Senate.

The LEGISLATIVE CLERK. A bill (S. 3941) relating to certain mining claims which were eligible for validation under the act of August 12, 1953, but which were not validated solely because of the failure of the owners to take certain action to protect their claims within the prescribed period.

The PRESIDENT pro tempore. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill which had been reported from the Committee on Interior and Insular Affairs with amendments, on page 1, after line 4, to strike out:

(1) meeting the eligibility requirements of the act of August 12, 1953 (67 Stat. 539), for purposes of validation;

(2) which was not validated as provided in such act solely because the owner thereof failed to post notice of his claim and file an amended notice of location within the allowable period; and

(3) which was located on certain lands of the United States, situated in McKinley County, N. Mex., and described as section 20, township 13 north, range 9 west;

shall be effective to the same extent as if such mining claim had been given full force and effect under the provisions of such act: *Provided*, That the owner thereof shall, not.

And, in lieu thereof, to insert:

(1) which was located on lands of the United States in (a) section 20 of township 13 north, range 9 west, New Mexico principal meridian, McKinley County, N. Mex.; or (b) situated in Johnson County, Wyo., and within section 3, 4, 9, 10, 11, or 15, township 43

Digest of CONGRESSIONAL PROCEEDINGS

OF INTEREST TO THE DEPARTMENT OF AGRICULTURE

OFFICE OF BUDGET AND FINANCE
(For Department Staff Only)

Issued
For actions of

July 20, 1956
July 19, 1956
84th-2nd, No. 123

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HIGHLIGHTS: Senate committee reported nomination of Kermit H. Hansen to be FHA Administrator. Senate confirmed nominations of members of Commission on Increased Industrial Use of Agricultural Products. Senate rejected Hells Canyon dam bill. Senate began consideration of executive pay bill. Senate conferees appointed on Public Law 480 bill. House passed rubber research laboratory disposal bill. House agreed to Senate amendments to bill broadening law on practices in marketing perishable commodities. House passed bill authorizing certain land exchanges between USDA and Defense Department. House Rules Committee cleared flood insurance bill. (Continued on page 6)

HOUSE

1. RUBBER. Passed without amendment S. 3832, to provide for disposal of the Government-owned synthetic rubber research laboratories at Akron, O. This bill is now ready for the President. p. 12364
2. MARKETING. Agreed to Senate amendments to H. R. 5337, to amend the provisions of the Perishable Agricultural Commodities Act so as to eliminate the necessity of proving "fraudulent purpose" in connection with the misbranding of any perishable agricultural commodity, make misrepresentation of the "region of origin" a violation of the Act, authorize the Secretary of Agriculture to change the annual license fee from \$15 to any amount not in excess of \$25, enlarge the grounds for denial of a license to permit denial, under certain circumstances, permit suspension or revocation (instead of revocation only) of the license of any licensee who after proper notice continues to employ in a responsible position any person whose license or whose previous firm's license has been revoked or suspended (rather than revoked only) and restrict the Secretary's authority to permit such employment after 1 year to cases in which the revocation or suspension was for failure to pay a reparation award, and

extend the record inspection provision to permit such record inspection as may be required (a) to determine the ownership, control, packer, or State, county or region of origin in connection with commodity inspection or (b) to ascertain whether the record keeping provisions of the Act are being complied with; and to permit inspection of any lot of any perishable agricultural commodity covered by the Act. This bill is now ready for the President. p. 12366

3. FORESTRY. Passed without amendment S. 2572, to authorize the interchange of lands between this Department and the military departments of the Defense Department. This bill is now ready for the President. p. 12373
4. SOCIAL SECURITY. Conferees were appointed on H. R. 7225, to amend and revise title II of the Social Security Act. Senate conferees were appointed on July 17. p. 12364
5. FARM LABOR. The Interstate and Foreign Commerce Committee reported with amendment S. 3391, to provide for reasonable requirements regarding comfort, safety, etc., of the interstate transportation of migrant farm workers (H. Rept. 2810). p. 12398
6. FLOOD INSURANCE. The Rules Committee reported a resolution for consideration of S. 3732, to provide insurance against flood damage. p. 12398
7. WOOL IMPORTS. The Ways and Means Committee ordered reported (but did not actually report) H. R. 12227, to permit the duty-free importation of wool of a type used in the manufacture of carpets. p. D841
8. BUDGET; ACCOUNTING. The conferees agreed to file a report (but did not actually file a report) on S. 3897, to improve governmental budgeting and accounting methods and procedures. p. D841
9. FARM PROGRAM. Rep. Henderson criticized government controls on the farm economy and the Democratic administrations' farm policies. p. 12394
10. TARIFFS. The Ways and Means Committee reported with amendment H. R. 12254, to provide additional time for the Tariff Commission to review the customs tariff schedules (H. Rept. 2815). p. 12398
11. ELECTRIFICATION. Rep. Rogers urged that consideration be given to atomic energy electric power facilities in the New England area as a means of providing a cheap source of power and increasing the industrial potential of that area. p. 12395
12. FOREIGN AFFAIRS. Both Houses received from the President a report on U. S. participation in the United Nations Organization (H. Doc. 455); to Senate Foreign Relations and House Foreign Affairs Committees. pp. 12239, 12362
13. LEGISLATIVE PROGRAM. Rep. McCormack announced that the House will be in session on Sat., July 21, and that on Mon., July 23, the Consent Calendar will be called and also consideration of bills under suspension of the rules will be in order. p. 12374
14. NOMINATIONS. The Agriculture and Forestry Committee reported the nomination of Kermit H. Hansen to be Administrator of the Farmers' Home Administration. pp.

SENATE

relevant factors the value of the laboratories to any interested agency and the amounts offered by public bidders. The National Science Foundation is authorized to reimburse the General Services Administration in advance for expenses necessary for the protection and maintenance of the laboratories up to June 30, 1957.

The bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

REPORT ON COMMUNIST CONSPIRACY

Mr. HAYS of Ohio. Mr. Speaker, by direction of the Committee on House Administration, I call up the concurrent resolution (H. Con. Res. 254) authorizing the printing of additional copies of House Reports Nos. 2240, 2241, 2242, 2243, and 2244, current session, and ask for its immediate consideration.

The Clerk read the resolution, as follows:

Resolved by the House of Representatives (the Senate concurring), That there be printed for the use of the Committee on Un-American Activities, House of Representatives, 10,000 additional copies each of House Reports Nos. 2240, 2241, 2242, 2243, and 2244, current session, all of which are reports on the Communist conspiracy.

Mr. LECOMPTE. Mr. Speaker, will the gentleman yield?

Mr. HAYS of Ohio. I yield.

Mr. LECOMPTE. May I ask the gentleman, at this time you contemplate calling up 6 or 7 so-called printing resolutions, all of which are for several of the standing committees of the House.

Mr. HAYS of Ohio. That is correct.

Mr. LECOMPTE. They have all been voted out by the subcommittee of the Committee on House Administration unanimously and no opposition has developed to any of the resolutions which you have before you at this time.

Mr. HAYS of Ohio. All of the resolutions which I intend to call up are privileged resolutions, I may say to the gentleman, and all of them were reported out of the subcommittee unanimously and reported out of the full committee unanimously. They have all been cleared with the leadership on both sides.

Mr. LECOMPTE. And all of them are for the use of standing committees of the House?

Mr. HAYS of Ohio. That is correct.

The resolution was agreed to.

A motion to reconsider was laid on the table.

HEARINGS ON CIVIL DEFENSE FOR NATIONAL SURVIVAL

Mr. HAYS of Ohio. Mr. Speaker, by direction of the Committee on House Administration, I call up the concurrent resolution (H. Con. Res. 261) authorizing the printing of additional copies of the hearings on civil defense for national survival held during the current session by a subcommittee of the Committee on Government Operations, and ask for its immediate consideration.

The Clerk read the resolution, as follows:

Resolved by the House of Representatives (the Senate concurring), That there be printed for the use of the Committee on Government Operations not to exceed 3,000 additional copies of each part of the hearing held by the Subcommittee on Military Operations, Committee on Government Operations, during the current session relative to civil defense for national survival.

The resolution was agreed to.

A motion to reconsider was laid on the table.

ADDITIONAL COPIES OF HEARINGS BY RESEARCH AND DEVELOPMENT SUBCOMMITTEE

Mr. HAYS of Ohio. Mr. Speaker, by direction of the Committee on House Administration, I call up the resolution (H. Con. Res. 262) and ask for its immediate consideration.

The Clerk read the resolution, as follows:

Resolved by the House of Representatives (the Senate concurring), That there be printed for the use of the Joint Committee on Atomic Energy 40,000 additional copies of the hearings held by the Research and Development Subcommittee of the said joint committee during the 84th Congress entitled "Progress Report on Research in Medicine, Biology, and Agriculture Using Radioactive Isotopes."

With the following committee amendment:

Page 1, line 2, after the word "printed" insert "with illustrations."

The amendment was agreed to.

The resolution was agreed to.

A motion to reconsider was laid on the table.

LABOR-MANAGEMENT PROBLEMS OF THE AMERICAN MERCHANT MARINE

Mr. HAYS of Ohio. Mr. Speaker, by direction of the Committee on House Administration, I call up the resolution (H. Con. Res. 263) and ask for its immediate consideration.

The Clerk read the resolution, as follows:

Resolved by the House of Representatives (the Senate concurring), That there be printed for the use of the Committee on Merchant Marine and Fisheries, House of Representatives, 1,000 additional copies of the hearing held by said committee during the current Congress, first session, relative to labor-management problems of the American merchant marine.

HOUSE REPORT NO. 2279

Mr. HAYS of Ohio. Mr. Speaker, by direction of the Committee on House Administration, I call up the resolution (H. Res. 529) and ask for its immediate consideration.

The Clerk read the resolution, as follows:

Resolved, That there be printed for the use of the Committee on Government Operations, House of Representatives, 4,000 additional copies of House Report No. 2279, a report of the Committee on Government Operations on the effect of Department of the Interior and Rural Electrification Administration policies on public power preference customers.

Mr. HOFFMAN of Michigan. Mr. Speaker, will the gentleman yield?

Mr. HAYS of Ohio. I yield.

Mr. HOFFMAN of Michigan. Is that the resolution where there is an understanding that the minority members are to have a proportionate share of the printing?

Mr. HAYS of Ohio. The gentleman is correct. The gentleman from Ohio, the chairman of the Subcommittee on Printing, will issue orders to the Printer, and it is understood and agreed by everyone that the minority will get its share.

Mr. LECOMPTE. Mr. Speaker, will the gentleman yield?

Mr. HAYS of Ohio. I yield.

Mr. LECOMPTE. That understanding prevails on all of these resolutions, does it not?

Mr. HAYS of Ohio. That is correct.

The SPEAKER. The question is on the resolution.

The resolution was agreed to.

A motion to reconsider was laid on the table.

ADDITIONAL COPIES OF TESTIMONY OF NIKOLAI KHOKHLOV

Mr. HAYS of Ohio. Mr. Speaker, by direction of the Committee on House Administration, I call up House Resolution 573 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

Resolved, That there be printed for the use of the Un-American Activities Committee 10,000 additional copies of the hearing held by that committee during the current session containing the testimony of Nikolai Khokhlov.

HEARINGS ON HEALTH AMENDMENT ACT OF 1956

Mr. HAYS of Ohio. Mr. Speaker, by direction of the Committee on House Administration, I call up the resolution (H. Res. 596) and ask for its immediate consideration.

The Clerk read the resolution, as follows:

Resolved, That there be printed for the use of the Committee on Interstate and Foreign Commerce, House of Representatives, 3,500 additional copies of the hearings held by said committee during the current session relative to the Health Amendments Act of 1956.

The resolution was agreed to.

A motion to reconsider was laid on the table.

NIAGARA FRONTIER PORT AUTHORITY

Mr. RADWAN. Mr. Speaker, I ask unanimous consent for the immediate consideration of the resolution (H. J. Res. 549) granting the consent of Congress to the State of New York to negotiate and enter into an agreement or compact with the Dominion of Canada for the establishment of the Niagara Frontier Port Authority with power to take over, maintain, and operate the present highway bridge over the Niagara River between the city of Buffalo, N. Y. and the city of Fort Erie, Ontario, Canada.

The Clerk read the title of the resolution.

The SPEAKER. Is there objection to the request of the gentleman from New Jersey [Mr. RADWAN]?

There being no objection, the Clerk read the resolution, as follows:

Resolved, etc., That the Congress hereby consents to the negotiation and entering into of a compact or agreement between the State of New York and the Dominion of Canada providing for (1) the establishment of the Niagara Frontier Port Authority substantially in accordance with the provisions of chapter 870 of the laws of 1955 of the State of New York as amended or supplemented; (2) the transfer of the operation, control, and maintenance of the present highway bridge (the Peace Bridge) over the Niagara River between the city of Buffalo, N. Y., and the city of Fort Erie, Ontario, Canada, to the Niagara Frontier Port Authority; (3) the transfer of all of the property, rights, powers, and duties of the Buffalo and Fort Erie Public Bridge Authority acquired by such authority under the compact consented to by the Congress in Public Resolution 22 of the 73d Congress, approved May 3, 1934 (48 Stat. 662), to the Niagara Frontier Port Authority; and (4) the consolidation of the Buffalo and Fort Erie Public Bridge Authority with the Niagara Frontier Port Authority and the termination of the corporate existence of the Buffalo and Fort Erie Public Bridge Authority.

Sec. 2. The right to alter, amend, or repeal this joint resolution is hereby expressly reserved.

Amend the title so as to read: "A bill granting the consent of Congress to the State of New York to negotiate and enter into an agreement or compact with the Government of Canada for the establishment of the Niagara Frontier Port Authority with power to take over, maintain, and operate the present highway bridge over the Niagara River between the city of Buffalo, N. Y., and the city of Fort Erie, Ontario, Canada."

With the following committee amendments:

Page 1, line 6, strike out "Dominion" and insert in lieu thereof "Government."

The resolution was ordered to be engrossed and read a third time, was read the third time and passed.

The title was amended so as to read: "A bill granting the consent of Congress to the State of New York to negotiate and enter into an agreement or compact with the Government of Canada for the establishment of the Niagara Frontier Port Authority with power to take over, maintain, and operate the present highway bridge over the Niagara River between the city of Buffalo, N. Y., and the city of Fort Erie, Ontario, Canada."

A motion to reconsider was laid on the table.

PERISHABLE AGRICULTURAL COMMODITIES ACT, 1930

Mr. ALBERT. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H. R. 5337) to amend the provisions of the Perishable Agricultural Commodities Act, 1930, relating to practices in the marketing of perishable agricultural commodities, with Senate amendments thereto, and agree to the Senate amendments.

The Clerk read the title of the bill.

The Clerk read the Senate amendments, as follows:

Page 2, line 3, after "2." insert "(a)."

Page 2, after line 5, insert:

"(b) The last proviso of section 4 (a) of such act (7 U. S. C., sec. 499d (a)) is amended by striking out 'a fee of \$20' and inserting 'the fee provided in section 3 (b), plus \$5'."

Page 5, line 6, strike out all after "(a)" down to and including "gives" in line 17 and insert:

"The Secretary or his duly authorized agents shall have the right to inspect such accounts, records, and memoranda of any commission merchant, dealer, or broker as may be material (1) in the investigation of complaints under this act, or (2) to the determination of ownership, control, packer, or State, country, or region of origin in connection with commodity inspections, or (3) to ascertain whether section 9 of this act is being complied with, and if any such commission merchant, dealer, or broker refuses to permit such inspection, the Secretary may publish the facts and circumstances and/or, by order, suspend the license of the offender until permission to make such inspection is given."

The SPEAKER. Is there objection to the request of the gentleman from Oklahoma [Mr. ALBERT]?

Mr. CURTIS of Missouri. Mr. Speaker, reserving the right to object, will the gentleman explain the bill briefly?

Mr. ALBERT. I shall be pleased to.

The bill will strengthen the enforcement provisions of the Perishable Agricultural Commodities Act. The purpose of that act is to prevent unfair and fraudulent practices in the marketing fresh fruits and vegetables in interstate commerce. The changes in the act made by the bill were carefully worked out with the Department of Agriculture and all segments of the fresh fruit and vegetable business. The amendments made by the Senate are minor in nature and are merely clarifying and technical in character.

Mr. CURTIS of Missouri. I want to thank the gentleman and withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Oklahoma?

There was no objection.

The Senate amendments were concurred in.

A motion to reconsider was laid on the table.

REDUCED RATE AIR TRANSPORTATION FOR MINISTERS

Mr. HARRIS. Mr. Speaker, I call up the conference report on the bill (S. 3149) to amend the Civil Aeronautics Act of 1938 in order to permit air carriers to grant free or reduced rate transportation to ministers of religion, and ask unanimous consent that the statement of the managers on the part of the House may be read in lieu of the report.

The Clerk read the title of the bill.

The SPEAKER. Is there objection to the request of the gentleman from Arkansas?

There was no objection.

The Clerk read the statement.

(For conference report and statement, see proceedings of the House of July 17, 1956.)

Mr. HARRIS. Mr. Speaker, I ask unanimous consent that the statement of the managers on the part of the House be printed at this point.

The SPEAKER. Without objection, it is so ordered.

There was no objection.

(The statement reads as follows:)

STATEMENT OF THE MANAGERS ON THE PART OF THE HOUSE

The managers on the part of the House at the conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 3149) to amend the Civil Aeronautics Act of 1938 in order to permit air carriers to grant free or reduced rate transportation to ministers of religion, submit the following statement in explanation of the effect of the action agreed upon by the conferees and recommended in the accompanying conference report:

The House amendment struck out all of the Senate bill after the enacting clause and inserted a substitute amendment. The Senate recedes from its disagreement to the amendment of the House, with an amendment which is a substitute for both the Senate bill and the House amendment. Except for conforming changes in the title, the following statement explains the differences between the House amendment and the substitute agreed to in conference.

The Senate bill amended section 403 (b) of the Civil Aeronautics Act of 1938 to permit all air carriers and foreign air carriers, under such terms and conditions as the Civil Aeronautics Board may prescribe, to grant free or reduced-rate transportation to ministers of religion on a space available basis.

The House amendment, which struck out all of the Senate bill after the enacting clause, amended section 403 (b) of the Civil Aeronautics Act of 1938 to permit only those air carriers and foreign air carriers not receiving so-called subsidy payments determined by the Civil Aeronautics Board under section 406 of such act and payable by such Board pursuant to Reorganization Plan No. 10 of 1953, during any period with respect to which such carriers grant reduced-rate transportation, to grant reduced-rate transportation, but not free transportation, to ministers of religion under such terms and conditions as such Board may prescribe. The House amendment did not contain a provision relating to the availability of space.

The substitute agreed to by the committee of conference permits all air carriers and foreign air carriers, under such terms and conditions as the Civil Aeronautics Board may prescribe, to grant reduced-rate transportation, but not free transportation, to ministers of religion, without regard to whether such carriers are receiving so-called subsidy payments determined by such Board under section 406 of such act and payable by such Board pursuant to Reorganization Plan No. 10 of 1953. Under the substitute such reduced-rate transportation will be provided only on a space available basis. The test to be applied in determining the availability of space is whether space is available on the aircraft immediately prior to the time of takeoff. This test, in effect, eliminates any possibility of granting reduced-rate transportation to ministers of religion which would interfere with the transportation of first-class-ticket holders.

OREN HARRIS,
F. ERTEL CARLYLE,
PETER F. MACK, JR.,
CHAS. A. WOLVERTON,
CARL HINSHAW,

Managers on the Part of the House.

The conference report was agreed to. A motion to reconsider was laid on the table.



Public Law 842 - 84th Congress
Chapter 786 - 2d Session
H. R. 5337

AN ACT

All 70 Stat. 726.

To amend the provisions of the Perishable Agricultural Commodities Act, 1930, relating to practices in the marketing of perishable agricultural commodities.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 2 (5) of the Perishable Agricultural Commodities Act, 1930 (7 U. S. C., sec. 499b (5)), is amended to read as follows: Perishable agricultural commodities.

“(5) For any commission merchant, dealer, or broker to misrepresent by word, act, mark, stencil, label, statement, or deed, the character, kind, grade, quality, quantity, size, pack, weight, condition, degree of maturity, or State, country, or region of origin of any perishable agricultural commodity received, shipped, sold, or offered to be sold in interstate or foreign commerce;” 46 Stat. 533.
Unfair conduct.

SEC. 2. (a) Section 3 (b) of such Act (7 U. S. C., sec. 499c (b)) is amended by striking out in the third sentence the words “of \$15” and inserting “not to exceed \$25”. License.
64 Stat. 217.

(b) The last proviso of section 4 (a) of such Act (7 U. S. C., sec. 499d (a)) is amended by striking out “a fee of \$20” and inserting “the fee provided in section 3 (b), plus \$5”. Fees.
64 Stat. 218.

SEC. 3. Section 4 (d) of such Act (7 U. S. C., sec. 499d (d)) is amended to read as follows: 50 Stat. 726.

“(d) The Secretary may withhold the issuance of a license to an applicant, for a period not to exceed thirty days pending an investigation, for the purpose of determining (a) whether the applicant is unfit to engage in the business of a commission merchant, dealer, or broker because the applicant, or in case the applicant is a partnership, any general partner, or in case the applicant is a corporation, any officer or holder of more than 10 per centum of the stock, prior to the date of the filing of the application engaged in any practice of the character prohibited by this Act or was convicted of a felony in any State or Federal court, or (b) whether the application contains any materially false or misleading statement or involves any misrepresentation, concealment, or withholding of facts respecting any violation of the Act by any officer, agent, or employee of the applicant. If after investigation the Secretary believes that the applicant should be refused a license, the applicant shall be given an opportunity for hearing within thirty days from the date of the application to show cause why the license should not be refused. If after the hearing the Secretary finds that the applicant is unfit to engage in the business of a commission merchant, dealer, or broker because the applicant, or in case the applicant is a partnership, any general partner, or in case the applicant is a corporation, any officer or holder of more than 10 per centum of the stock, prior to the date of the filing of the application engaged in any practice of the character prohibited by this Act or was convicted of a felony in any State or Federal court, or because the application contains a materially false or misleading statement made by the applicant or by its representative on its behalf, or involves a misrepresentation, concealment, or withholding of facts respecting any violation of the Act by any officer, agent, or employee, the Secretary may refuse to issue a license to the applicant.” Investigation.
Hearing.

SEC. 4. Section 4 of such Act is further amended by adding at the end thereof the following subsection: 50 Stat. 726.
7 USC 499d.

“(e) The Secretary may refuse to issue a license to an applicant if he finds that the applicant, or in case the applicant is a partnership, any general partner, or in case the applicant is a corporation, any officer or holder of more than 10 per centum of the stock, has, within Refusal of license.

three years prior to the date of the application, been adjudicated or discharged as a bankrupt, or was a general partner of a partnership or officer or holder of more than 10 per centum of the stock of a corporation adjudicated or discharged as a bankrupt, unless the applicant furnishes a bond of such nature and amount as may be determined by the Secretary or other assurance satisfactory to the Secretary that the business of the applicant will be conducted in accordance with this Act."

46 Stat. 588.

SEC. 5. Section 8 (b) of such Act (7 U. S. C., sec. 499h (b)) is amended to read as follows:

Suspension of
license.

"(b) The Secretary may, after thirty days' notice and an opportunity for a hearing, suspend or revoke the license of any commission merchant, dealer, or broker who, after the date given in such notice, continues to employ in any responsible position any individual whose license has been revoked or is under suspension or who was responsibly connected with any firm, partnership, association, or corporation whose license has been revoked or is under suspension. Employment of an individual whose license has been revoked or is under suspension for failure to pay a reparation award or who was responsibly connected with any firm, partnership, association, or corporation whose license has been revoked or is under suspension for failure to pay a reparation award after one year following the revocation or suspension of any such license may be permitted by the Secretary upon the filing by the employing licensee of a bond, of such nature and amount as may be determined by the Secretary, or other assurance satisfactory to the Secretary that its business will be conducted in accordance with the provisions of this Act;"

46 Stat. 536.

SEC. 6. Section 13 (a) of such Act (7 U. S. C., sec. 499m (a)) is amended to read as follows:

Inspection of
accounts, etc.

"(a) The Secretary or his duly authorized agents shall have the right to inspect such accounts, records, and memoranda of any commission merchant, dealer, or broker as may be material (1) in the investigation of complaints under this Act, or (2) to the determination of ownership, control, packer, or State, country, or region of origin in connection with commodity inspections, or (3) to ascertain whether section 9 of this Act is being complied with, and if any such commission merchant, dealer, or broker refuses to permit such inspection, the Secretary may publish the facts and circumstances and/or, by order, suspend the license of the offender until permission to make such inspection is given. The Secretary or his duly authorized agents shall have the right to inspect any lot of any perishable agricultural commodity covered by this Act, and if any commission merchant, dealer, or broker having ownership of or control over such lot fails or refuses to authorize or allow such inspection, the Secretary may, after thirty days' notice and an opportunity for a hearing, publish the facts and circumstances and/or, by order, suspend the license of the offender for a period not to exceed ninety days."

Approved July 30, 1956.